

HOUSE BILL 3166
By Walley

AN ACT relative to the provision of services for children and to amend Tennessee Code Annotated, Title 4, Title 7, Title 8, Title 10, Title 16, Title 33, Title 34, Title 36, Title 37, Title 38, Title 39, Title 40, Title 41, Title 49, Title 66, Title 68, and Title 71.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 3, is amended by adding Sections 2 through 15 of this act as a new part.

SECTION 2. Creation. There is hereby created the department of children's services.

SECTION 3. Purpose. Through the department of children's services, Tennessee state government, in partnership with juvenile courts, local communities, schools, and families will strive to provide timely, appropriate and cost-effective services for children in state custody and at risk of entering state custody so that these children can reach their full potential as productive, competent, and healthy adults. The department of children's services is created to provide services to those children who are unruly, delinquent, dependent and neglected, and their respective families, as well as for children who are at imminent risk and in need of services to prevent entry into state custody, who are in state custody pending family reunification or other permanent placement, or as otherwise may be required for such children and their families pursuant to state law. The focus of the services shall be to preserve the relationship between the child and the family by providing, whenever possible, services in the community where the child lives and by providing the services in a setting which is the least restrictive and, yet, the

most beneficial. For the children it serves, the department of children's services shall strive: 1) to protect children from abuse, mistreatment, or neglect; 2) to provide prevention, early intervention, rehabilitative, and educational services; 3) to pursue appropriate and effective behavioral and mental health treatment; and 4) to ensure that health care needs, both preventive and practical, are met. The department will work to preserve the safety and protect the standards in Tennessee communities through efforts to combat delinquency and other social ills concerning young people. The department of children's services shall work to continuously improve the management and coordination of services for the children and families of Tennessee identified in this section by ensuring thorough evaluations and assessments, appropriate and effective service delivery, timely permanency planning, and supportive supervision and monitoring of the progress of children discharged from state custody.

SECTION 4. Definitions. As used in this act, unless the context otherwise requires:

(a) "Abuse or Neglect" exists when any person under the age of 18 has sustained an injury or is in immediate danger of being injured by the actions or inactions of a parent, relative, guardian, or caretaker.

For the purposes of this definition, an injury is significant physical trauma to the child including, but not limited to:

Broken bones; eye socket injury; brain or spinal cord injury; puncture wounds; abrasions; auditory damage; any type of burn or bruising on any part of the body of a child age two or younger that is not the result of an accident, normal developmental activity, or developmentally appropriate discipline; deep penetrating contusions on the body of a child over two years of age; any sexual contact as stated in 37-1-602; use of life threatening weapons against the child; or any other willful or knowing behavior that may cause any of the above injuries.

Injury shall also include, but is not limited to, repeated and continuous failure to provide minimally adequate food, medical care, shelter, or supervision. It may also include

psychological abuse that is determined to cause or is likely to cause profound emotional damage.

Injury does not include parental behavior or life-style choices of parents/caretakers that have no impact on the care, condition, or well-being of the child.

(b) "Adult" means, as defined in § 37-1-102(b)(3), any person eighteen (18) years of age or older.

(c) "Adjudication of delinquency" means that a juvenile court has found beyond a reasonable doubt that a child has committed a delinquent act as defined in §37-1-102(b)(8) which is an act designated a crime under the law, including local ordinances of this state, or of another state if the act occurred in that state, or under federal law, and the crime does not fall under §37-1-102(b)(21)(c) and the crime is not a traffic offense as defined in the traffic code of the state other than failing to stop when involved in an accident pursuant to §55-10-101, driving while under the influence of an intoxicant or drug, or vehicular homicide.

(d) "Child" means, as defined in § 37-1-102(b)(4):

(1) A person under eighteen (18) years of age.

(2) No exception shall be made for a child who may be emancipated by marriage or otherwise.

(3) The above definition shall be effective July 1, 1996, before which date the definition of "child" shall be the definition found in §37-1-102(b)(4), 1995 supplement to the Tennessee Code Annotated.

(e)(1) "Child Sexual Abuse" means, as defined in § 37-1-602, the commission of any act involving the unlawful sexual abuse, molestation, fondling or carnal knowledge of a child under the age of thirteen (13) that prior to November 1, 1989, constituted the criminal offense of:

(A) Aggravated rape under § 39-2-603 [repealed];

(B) Rape under §39-2-604 [repealed];

(C) Aggravated sexual battery under § 39-2-606 [repealed];

(D) Sexual battery under § 39-2-607 [repealed];

(E) Assault with intent to commit rape or attempt to commit rape or sexual battery under § 39-2-608 [repealed];

(F) Crimes against nature under § 39-2-612 [repealed];

(G) Incest under § 39-4-306 [repealed];

(H) Begetting child on wife's sister under § 39-4-307 [repealed];

(I) Use of minor for obscene purposes under § 39-6-1137 [repealed]; or

(J) Promotion of performance including sexual conduct by minor under § 39-6-1138 [repealed].

(2) "Child Sexual Abuse" also means the commission of any act involving the unlawful sexual abuse, molestation, fondling or carnal knowledge of a child under the age of thirteen (13) that on or after November 1, 1989, constituted the criminal offense of:

(A) Aggravated rape under § 39-13-502;

(B) Rape under § 39-13-503;

(C) Aggravated sexual battery under § 39-13-504;

(D) Sexual battery under § 39-13-505;

(E) Criminal attempt as provided in § 39-12-101 for any of the offenses listed above;

(F) Incest under § 39-15-302;

(G) Sexual exploitation of a minor under § 39-17-1003;

(H) Aggravated sexual exploitation of a minor under § 39-17-1004; or

(I) Especially aggravated sexual exploitation of a minor under § 39-17-1005.

(3) "Child Sexual abuse" also means one (1) or more of the following acts:

(A) Any penetration, however slight, of the vagina or anal opening of one (1) person by the penis of another person, whether or not there is the emission of semen;

(B) Any contact between the genitals or anal opening of one (1) person and the mouth or tongue of another person;

(C) Any intrusion by one (1) person into the genitals or anal opening of another person, including the use of any object for this purpose, except that it shall not include acts intended for a valid medical purpose;

(D) The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the perpetrator, except that it shall not include:

(i) Acts which may reasonably be construed to be normal caretaker responsibilities, interactions with, or affection for a child; or

(ii) Acts intended for a valid medical purpose;

(E) The intentional exposure of the perpetrator's genitals in the presence of a child, or any other sexual act intentionally perpetrated in the presence of a child, if such exposure or sexual act is for the purpose of sexual arousal or gratification, aggression, degradation, or other similar purpose;

(F) The sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:

(i) Solicit for or engage in prostitution; or

(ii) Engage in an act prohibited by § 39-17-1003;

(4) For the purposes of the reporting, investigation, and treatment provisions of §§37-1-603 -- 37-1-615 "child sexual abuse" also means the commission of any act specified in subdivisions (a)(2)(A)-(C) against a child thirteen (13) years of age through seventeen (17) years of age if such act is committed against the child by a parent, guardian, relative, person residing in the child's home, or other person responsible for the care and custody of the child;

(f) "Commissioner" means the commissioner of the department of children's services.

(g) "Department" means the department of children's services.

(h) "Dependent and neglected" means, as defined in §37-1-102(b)(10), a child:

(1) Who is without a parent, guardian or legal custodian;

(2) Whose parent, guardian or person with whom the child lives, by reason of cruelty, mental incapacity, immorality or depravity is unfit to properly care for such child;

(3) Who is under unlawful or improper care, supervision, custody or restraint by any person, corporation, agency, association, institution, society or other organization or who is unlawfully kept out of school;

(4) Whose parent, guardian or custodian neglects or refuses to provide necessary medical, surgical, institutional or hospital care for such child;

(5) Who, because of lack of proper supervision, is found in any place the existence of which is in violation of law;

(6) Who is in such condition of want or suffering or is under such improper guardianship or control as to injure or endanger the morals or health of himself or others;

(7) Who is suffering from abuse or neglect;

(8) Who has been in the care and control of an agency or person who is not related to such child by blood or marriage for a continuous period of eighteen (18) months or longer in the absence of a court order and such person or agency has not initiated judicial proceedings seeking either legal custody or adoption of the child; or

(9) Who is or has been allowed, encouraged or permitted to engage in prostitution or obscene or pornographic photographing, filming, posing, or similar activity and whose parent, guardian or other custodian neglects or refuses to protect such child from further such activity.

(i) "Guardian" means for purposes of adoptions and terminations of parental rights the meanings set forth in §36-1-102 and for all other purposes the meaning set forth in §34-11-101.

(j) "Imminent Risk" means circumstances or behavior likely to produce, within a relatively short period of time, a reasonably strong probability that the child will be placed in state custody.

(k) "Juvenile" means: (1) a person under eighteen (18) years of age.

(2) no exception shall be made for a child who may be emancipated by marriage or otherwise.

(l) "Legal custodian" means the person or agency to whom or which legal custody has been given by the court under this part and who or which has the right to the physical custody of the child, the right to determine the nature of the care and treatment of the child, including ordinary health care, and the right and duty to provide for the care, protection, training and education, and the physical, mental and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.

(m) "Order of Referral" means a juvenile court order entered prior to a child being adjudicated unruly or dependent and neglected, or prior to the disposition of a child who has been adjudicated delinquent, unruly, or dependent and neglected, which directs that the department make an assessment of the child and report the findings and recommendations to the court.

(n) "Report of harm" means a report regarding child abuse filed under §37-1-403 or a report regarding child sexual abuse filed under §37-1-605.

(o) "Unruly" means: (1) as defined in §37-1-102 (b)(21), a child in need of treatment and rehabilitation who having received services from a juvenile-family crisis intervention program under §§37-1-168 and 37-1-169 and who having been certified for referral to the juvenile-family crisis intervention program continues to:

(A) Habitually and without justification, be truant from school while subject to compulsory school attendance under § 49-6-3007; or

(B) Habitually be disobedient of the reasonable and lawful commands of the child's parent(s), guardian or other legal custodian to the degree that such child's health and safety are endangered; or

(C) Commit an offense which is applicable only to a child; or

(D) Be away from the home, residence, or any other residential placement of his parent(s), guardian, or other legal custodian without their consent. Such child shall be known and defined as a "runaway."

(2) The above definition shall be effective July 1, 1996, before which date the definition of "unruly" shall be the definition found in §37-1-102(b)(21), 1995 supplement to the Tennessee Code Annotated.

(p) "Youth Development Center" means a hardware secure facility that houses children who have been adjudicated delinquent and who meet the criteria as established by the department for placement at such facility.

SECTION 5. Commissioner of the department of children's services-Qualifications.

(a) The governor shall appoint a person qualified by training and experience in the area of children's services to perform the duties of the commissioner of the department of children's services. The appointee must be a graduate of an accredited college or university.

(b) The commissioner shall hold office at the pleasure of the governor, and the commissioner's compensation shall be fixed by the governor and paid from the appropriation available to the department pursuant to §8-23-101(c)(16).

(c) The commissioner shall have the necessary offices, equipment, and supplies to carry out the duties of the office.

SECTION 6. Powers and duties of commissioner. The commissioner of the department of children's services, or his or her designee, has the following powers and duties in addition to such other powers and duties as may be specifically provided by law in this title or as otherwise provided by law.

(a) Select and recommend to the appropriate state officials the employment or transfer of all personnel required for the operation of the department;

(b) Recommend to the appropriate state officials the salaries and compensation of all officers and employees of the department;

(c) Make and adopt rules, regulations, and policies for the government, management, and supervision of state children's service agencies or facilities, and/or children's services; prescribe the powers and duties of the officers and employees thereof; and provide for the care

of children served by the department; provided, however, such rules shall be consistent with and subject to licensing approval authority of any other state agency which has responsibility for licensing or approval of any portion of program services or facilities provided by the department.

(d) Publish, in accordance with the rules, regulations, policies and procedures of the state publication committee, an annual report on the operation of the department and the services and programs under its supervision by January 31 and furnish the report to the governor, members of the general assembly, and others as the governor may consider appropriate.

(e) Direct the placement of children in appropriate state programs and/or facilities, and/or contract programs or facilities in conformity with constitutional, statutory or regulatory requirements.

(f) Assume general responsibility for the proper and efficient operation of the department, its services, and programs. The commissioner may establish such divisions and units within the department as necessary for its efficient operation.

(g)(1) Promulgate necessary rules and regulations to govern administrative searches and inspections of employees of the department, juveniles in the custody of the department and visitors to facilities of the department.

(2) Such rules shall provide guidelines and standards for the manner in which the searches authorized by subsection (g) shall be conducted.

(h) Promulgate rules and regulations concerning drug testing which are not inconsistent with the provisions of Tennessee Code Annotated, Section 41-1-122.

(i)(1) Conduct investigations as deemed necessary to the performance of the commissioner's duties, and to that end, the commissioner or his or her designee shall have the same power as a judge of the court of general sessions to administer oaths and to enforce the attendance and testimony of witnesses and the production of books and papers.

(2) The commissioner shall keep a record of such investigations, stating the time, place, nature, or subject, witnesses summoned and examined, and the commissioner's conclusions.

(3) In matters involving the conduct of an office, a stenographic report of the evidence may be taken and a copy thereof with all documents introduced kept on file at the office of the department.

(4) The fees of witnesses for attendance and travel shall be the same as in the circuit court, but no officer or employee of the institution under investigation shall be entitled thereto.

(5) Any judge of the circuit or chancery court, either in term time or in vacation, upon application of the commissioner, may compel the attendance of witnesses, the production of books or papers and the giving of testimony before the commissioner, by a judgment for contempt or otherwise, in the same manner as in the cases before a circuit or chancery court.

(j)(1) The commissioner shall have the authority to conduct or cause to be conducted any administrative hearings relating to any factual determinations which the department is authorized or required to make pursuant to the Uniform Administrative Procedures Act, §§4-5-101 et seq. through §§ 4-5-301 et seq. or pursuant to any other hearing procedures required by law or which may be necessary to provide due process procedures for individuals affected by the programs administered by the department.

(2) The commissioner, or any officer or employee of the department upon written authorization from the commissioner, has the power to administer oath and affirmations, take depositions, issue subpoenas, and require the production of documents and any books and records that may be necessary in the conduct of such hearings.

(k) Perform all duties and exercise all authority set forth in Title 68, Chapter 2, Part 11 regarding community services agencies.

(l)(1) Establish a children's services advisory council having fifteen (15) members appointed by the commissioner to act in an advisory capacity on any matter within the jurisdiction of the department. Appointees to the council may include, but not be limited to,

representatives of local law enforcement, mental health professionals, local education authorities, juvenile court officials, social workers, health care providers, a consumer of services, and public and private agencies which provide services to children. The members of the council shall be appointed with a conscious intention of reflecting a diverse mixture with respect to race and gender. Each community services agency region shall be represented by at least one individual on the council.

(2) The term of a member of the children's services advisory council shall be three (3) years with the terms staggered so as to replace no more than one third (1/3) of the members each year. Members of the council may be reappointed after their term expires. Members of the council shall continue in office until the expiration of their term for which they were respectively appointed and until such time as their successors are appointed. Vacancies occurring on the council by reasons of death or resignation shall be filled in the same manner as a regular appointment for the remainder of the unexpired term.

(3) Members shall be reimbursed for their actual expenses for attending meetings of the council. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(4) The duties of the council shall be to advise the commissioner regarding issues pertaining to the purpose of the department and its work when requested by the commissioner. Annually, the council shall elect one of its members to serve as chair of the council and one member to serve as secretary. Minutes of each meeting shall be kept and sent to the commissioner. Any officer may be elected to consecutive terms.

(m) Establish from time to time committees composed of representatives from the public and/or private sectors for such purpose and durations as may be deemed appropriate or required by the commissioner. Members of such committees shall be reimbursed for their actual expenses for attending meetings of their respective committees. All reimbursement for

travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

SECTION 7. Powers of the department. The department of children's services shall have the following powers:

(a) Administer, develop and/or oversee programs, including, but not limited to, state children's services agencies (except those operated by the department of mental health and mental retardation), assessment services, probation services, aftercare supervision services, child protective services, and other services as required by law or as otherwise reasonably necessary for unruly, delinquent, dependent and neglected children, and their respective families, as well as children who are at imminent risk and in need of services to prevent entry into state custody, who are in state custody pending family reunification or other permanent placement, or as otherwise may be required for such children and their families pursuant to state law; provided, however, such administration shall be consistent with and subject to licensing or approval authority of any other state agency which has responsibility for licensing or approval of any portion of program services or facilities provided by the department. Nothing herein shall preclude the service of at risk children by the Department of Mental Health and Mental Retardation who are classified as seriously emotionally disturbed and for whom that department has primary responsibility.

(b) Provide services as required by law to children committed to its custody pursuant to the provisions of Titles 33, 34, 37 or 39, or provide services to children who are in need of services as required or permitted by law under the provisions of the Interstate Compact on the Placement of Juveniles in §§ 37-4-101 through 37-4-106, the Interstate Compact on the Placement of Children in §§ 37-4-201 through 37-4-207, or who are committed to the department by any order of the courts as a result of a divorce or adoption or guardianship proceeding.

(c)(1) License or approve and supervise child welfare agencies as defined in §§71-3-501 et seq. which are placed within the department's jurisdiction pursuant to law.

(2) License or approve and supervise all facilities which were previously operated by the department of youth development.

(3) License or approve and supervise any entity which provides services consistent with this act and the exceptions set forth therein.

(d) For the purposes of treatment, reunification, and rehabilitation, allow delinquent children committed to the department's custody to make home visits to the natural parent(s), relatives, or legal guardian. Such visits must be approved by the committing juvenile court, unless such court declines to exercise decision-making in regard to home passes, in which case the commissioner has authority to grant passes without any further court approval or action.

(e) Receive and administer state funds appropriated for children being served by the department of children's services.

(f) Seek, apply for, receive and administer federal funds as well as any other grants or funds that can be used for children being served by the department of children's services.

(g) Administer the contractual obligations and functions and or the funding arrangements for the department.

(h) Enter into contracts with the department of human services, the department of mental health and mental retardation, the department of education and the department of health, with agencies of such departments, or any other department or agency of state government, with private individuals and corporations, and with associations, organizations or any other entities, governmental or otherwise, for services which the department of children's services may deem necessary to carry out the purposes of this title. Such services may include, but are not limited to, health, psychological, social, education, transportation, program evaluation, placement, detention, prevention, assessment, and case management.

(i) Develop and maintain a system for the purpose of handling, coordinating, processing and disseminating the information generated by the department's activities and services.

(j) Provide appropriate training, either through the department or by contract, to individuals within the department and may provide training to those entities delivering services for the department of children's services.

(k) Provide for all adoption services responsibilities as it may be required to perform pursuant to Title 36, Chapter 1, Part 1, and for the operation of the putative father registry pursuant to § 36-2-209.

(l) Administer the Title IV-E foster care and adoption assistance program established pursuant to the Social Security Act in 42 U.S.C. 670 et seq. or any successor entitlements.

(m) Establish rules and regulations concerning the provision of financial assistance to persons who adopt a child who has special needs, is difficult to place because of physical handicap, mental or emotional condition, or other serious impediments to adoption.

(n) Administer the Interstate Compact on Adoption and Medical Assistance pursuant to § 36-1-201 et seq.

(o)(1) Establish, notwithstanding any law to the contrary, rules and regulations for charging fees for the department's preparation and presentation, for any purpose, of social reports of homes and/or parent(s) or other persons, when ordered by the courts unless:

(A) the order is based upon a finding that the child or children who are the subjects of the order are victims of abuse or neglect;

(B) the order is based upon a finding that the child or children who are the subjects of the order have been alleged in the proceedings to be victims of abuse or neglect; or

(C) the department has received a report of harm pursuant to § 37-1-403 or § 37-1-605, concerning the child or children who are the subjects of the order. The department may, for purposes of this section, disclose such fact to the court.

(2) Provide by rule or regulation that the parent or parents of the child or children and/or any person or persons legally responsible for the child or children and/or any other party to the case, as the court may determine, shall be assessed the costs of the social report. The costs shall not exceed the department's cost to provide the service.

(3) Provide by rule for waiver of costs for any person or persons who are indigent as determined by the department.

(4) Costs of such reports shall be reported by the department to the court and such costs shall be assessed by the court as court costs, as determined by the court, against the parent or parents and/or other parties and/or person legally responsible for the child or children and such costs shall be enforced accordingly by the court.

(5) Such costs shall be paid by the court clerk to the department, and the funds received by the department shall be deposited to the state treasury pursuant to § 9-4-301.

(p)(1) Administer and coordinate the operation of the Tennessee Preparatory School which shall be a part of the department's special school district.

(2) Initial placement at the Tennessee Preparatory School shall be limited to children who are at least twelve (12) years of age, but less than eighteen (18) years of age. The commissioner may make exception to the minimum age requirement for younger siblings of a child who has been placed at Tennessee Preparatory School.

(3) To be eligible for placement at the Tennessee Preparatory School, the commissioner or his or her designee shall find that a child in the department's custody is without support, abandoned, neglected or an orphan, or is without suitable home, proper guardianship, or is in danger of becoming delinquent because of dependency or neglect. Further, a child that has been adjudicated delinquent by virtue of committing an act that would be a misdemeanor criminal act, if committed by an adult, and is not otherwise appropriate for placement at a youth development center may also be eligible for placement at the Tennessee Preparatory School.

(r) Establish by policy, rule, or regulation appropriate and necessary guidelines for consent to health care treatment for children in state custody or who are being served by the department of children's services.

(s) The attorney general and reporter shall, upon request, advise the department on matters of law.

(t) The department may acquire, hold, or alienate property or leaseholds necessary or desirable for the performance of any of its functions which are vested in it by law.

(u)(1) The department is specifically authorized to establish any programs for the use of volunteers who may be able to provide assistance to the department in any of the services which are vested in it by law or which it may provide as a necessary part of such services. To the extent funds are available, and if necessary and desirable, the department may reimburse such volunteers for actual travel or other reasonable expenses for their services. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter. Meals may be furnished without charge at department facilities if the scheduled volunteer assignment extends over an established meal period. The department may use any funds available including federal, state, or local funds or private donations which it has for any expenses associated with these programs.

(2) Any volunteers who are registered by the department with the board of claims shall be accorded the same protections, legal representation authorization, and immunities as state employees pursuant to § 8-42-101 et seq. and § 9-8-307 for civil or criminal actions brought against them within the scope and course of their activities in such volunteer programs; provided, however, they shall not be covered by workers compensation pursuant to § 9-8-307.

(3) Volunteers may use state vehicles when their assignments so require, subject to the approval of the department and in compliance with any policies or rules or regulations which may be promulgated by the department.

SECTION 8. Confidentiality of Records. (a) All applications, certificates, records, reports, and all legal documents, petitions, and records made or information received pursuant to this title and directly or indirectly identifying a child or family receiving services from the department shall be kept confidential and shall not be disclosed except as allowed by existing statutes, rules or policies, or statutes as they may be amended. The department may utilize any information it has or may acquire to provide services to the child.

(b) Upon placement of a child in the custody of the department of children's services, all state, county, and local agencies shall, notwithstanding any state laws or regulations to the contrary, grant access to any and all records in their possession which relate to the child for use by the department of children's services to determine a child's condition, needs, treatment, or any other area of management; provided, however, release of health care information must be consistent with the laws and policies of the departments of health and mental health and mental retardation. The department of children's services shall comply with federal statutes and regulations concerning confidentiality of records. Any records which are confidential by law upon the enactment of this legislation, shall be maintained as confidential by the department of children's services.

(c) Except as otherwise provided pursuant to 20 U.S.C. § 1232g(b)(1) , prior to the release of student records the local education agency must give written notice to the student and parent as required by 20 U.S.C. Section 1232g(b)(1) and must provide the parent with a copy of all records released.

(d) Release of drug and alcohol records must comply with federal and state laws and regulations regarding the release of these records.

SECTION 9. Conflict of Interest. The department of children's services shall have the power and authority to establish by policy, rule, or regulation provisions for resolution of any conflict of interest that may occur within the department of children's services that may affect the constitutional rights of a child being served by the department of children's services.

SECTION 10. Licensing. The responsibility for licensing children's programs, agencies, group homes, institutions, or any other entity serving children which requires a license by law in Tennessee is as follows:

(a) The department of children's services shall license or approve and supervise child abuse agencies, child-caring institutions, child-placing agencies, detention centers, family boarding or foster care homes, group care homes, maternity homes, and temporary holding resources. Exceptions to the department of children's services licensing responsibilities concerning the aforementioned categories are contained in Tennessee Code Annotated, Section 71-3-527.

(b) The department of human services shall license or approve and supervise child-care centers, family child-care homes, group child-care homes, and prescribed child-care centers. Exceptions to the department of human services' licensing responsibilities concerning the aforementioned categories are contained in Tennessee Code Annotated, Section §71-3-527.

(c) The department of mental health and mental retardation shall license or approve and supervise any institution, treatment resource, group residence, boarding home, sheltered workshop, activity center, rehabilitation center, hospital, community mental health center, counseling center, clinic, halfway house, or other entity, by these or other names, providing mental health or mental retardation services or as required by §33-2-501 et seq. or §33-5-105. Exceptions to the department of mental health and mental retardation's licensing responsibilities concerning the aforementioned categories are contained in Tennessee Code Annotated, Section 33-2-502.

(d) Any programs or portions of programs, or any place, home, facility, institution, or other entity which are otherwise subject to licensure or approval by any other agency as required by law shall continue to be licensed or approved by that agency.

SECTION 11. Contracts/Leases. (a) Contracts or leases entered into prior to the effective date of this act, with respect to any program or function transferred to the department of children's services with any entity, corporation, agency, enterprise or person, shall continue in full force and effect as to all essential provisions in accordance with the terms and conditions of the contracts in existence on the effective date, to the same extent as if such contracts had originally been entered into by and between such entity, corporation, agency, enterprise or person and the department of children's services, unless and until such contracts or leases are amended or modified by the parties thereto or until the expiration of such contract.

(b) The provisions of this act shall not be implemented in any manner which violates the prohibition against impairment of contract obligations as contained in Article I, Section 20 of the Constitution of Tennessee.

SECTION 12. Funds. Upon the effective date of this act, the department of children's services, through its commissioner, shall have the authority to receive, administer, allocate, disburse, and supervise any grants and funds from whatever sources, including, but not limited to, the federal, state, county and municipal governments on a state, regional, county or any other basis, with respect to any programs and/or responsibilities outlined in this act or assigned to the department by law, regulation, or order. Exercise of this authority shall not be inconsistent with laws or regulations governing the appropriation and disbursement of funds as administered by the department of finance and administration.

SECTION 13. Rules. All current rules, regulations, orders, decisions and policies heretofore issued or promulgated by any departments of state government whose functions have been transferred under the provisions of this act shall remain in full force and effect and shall hereafter be administered and enforced by the department of children's services. To this

end, the department of children's services, through its commissioner, shall have the authority, consistent with the statutes and regulations pertaining to the programs and functions transferred herein, to modify or rescind orders, rules and regulations, decisions or policies heretofore issued and to adopt, issue or promulgate new orders, rules and regulations, decisions or policies as may be necessary for the administration of the programs or functions herein transferred.

SECTION 14. Accreditation. The department of children's services may elect to have youth development centers or other facilities accredited by the commission on accreditation for correction or other nationally recognized accreditation body.

SECTION 15. Transfer from department of youth development. (a) Any juvenile program which was administered by the department of youth development prior to the effective date of this act shall be transferred to, and administered by, the department of children's services on and after the effective date of this act.

(b) All staff, staff positions, offices, equipment, supplies, property, funds and other resources of any juvenile program under the department of youth development shall be transferred to the department of children's services.

(c)(1) References to the department of youth development or the division of juvenile probation relative to programs for juveniles appearing elsewhere in this code shall be deemed to be references to the department of children's services.

(2)(A) The code commission is directed to change references to the existing titles of officials, offices, agencies and entities, whenever they appear in this code, to conform to the titles of officials, offices, agencies and entities created by the provisions of this act.

(B) The code commission is authorized to make grammatical changes in the provisions of this code to effectuate such changes.

(d)(1) All contracts and leases entered into by the department of youth development relative to programs for juveniles shall continue in full force and effect as to all provisions in

accordance with the terms and conditions of such contracts or leases in existence on the effective date of this act, unless and until such contracts or leases expire or are duly amended or modified by the parties thereto.

(2) All rules, policies, orders and decisions related to juvenile services promulgated or issued by the department of youth development prior to, and in effect on the effective date of this act, shall remain in force and effect and shall be administered and enforced by the department of children's services until duly amended, repealed, expired, modified or superseded.

SECTION 16. (a) Tennessee Code Annotated, Title 4, is amended by deleting the words "department of youth development" wherever they appear and by substituting instead the words "department of children's services".

(b) Tennessee Code Annotated, Title 4, is further amended by deleting the words "commissioner of youth development" wherever they appear and by substituting instead the words "commissioner of children's services".

SECTION 17. Tennessee Code Annotated, Section 4-3-101, is amended by deleting the language of subsection (25) in its entirety and by substituting instead the following language:
department of children's services

SECTION 18. Tennessee Code Annotated, Section 4-3-111, is amended by deleting the language of subsection (25) and by substituting instead the following language:
commissioner of children's services for the department of children's services

SECTION 19. Tennessee Code Annotated, Section 4-3-1204, is amended by deleting subsection (a) in its entirety.

SECTION 20. Tennessee Code Annotated, Sections 4-3-2601 through 4-3-2608, are amended by deleting the sections in their entireties.

SECTION 21. Tennessee Code Annotated, Section 4-3-2609, is amended by deleting the words "youth development" and by substituting instead the words "children's services". This

section is further amended by transferring this section to an appropriately designated Part in Title 4, Chapter 3.

SECTION 22. Tennessee Code Annotated, Section 4-3-2610, is amended by deleting the words “youth development” whenever they appear and by substituting instead the words “children’s services”. This section is further amended by deleting the words “under care, beyond the punishment ordered by law, or the rules and regulations of the department” and by substituting instead the words “in the care of the department”. This section is further amended by transferring the section to an appropriately designated Part in Title 4, Chapter 3.

SECTION 23. Tennessee Code Annotated, Section 4-3-2620, is amended by deleting the words “youth development” wherever they are found and by substituting instead the words “children’s services”. This section is further amended by deleting the words “youth centers” wherever they are found and substituting instead the words “youth development centers and any other facilities deemed appropriate by the commissioner”. This section is further amended by transferring it to an appropriately designated Part in Title 4, Chapter 3.

SECTION 24. Tennessee Code Annotated, Section 4-3-2620(a), is amended by deleting the words “under the control of the commissioner of youth development”.

SECTION 25. Tennessee Code Annotated, Section 4-3-2625, is amended by deleting the words “youth development” and by substituting instead the words “children’s services”. This section is further amended by transferring this section to an appropriately designated Part in Title 4, Chapter 3.

SECTION 26. Tennessee Code Annotated, Section 7-51-201 (a)(2), is amended by deleting the words “youth development” and by substituting instead the words “children’s services”.

SECTION 27. Tennessee Code Annotated, Section 8-23-101(c)(16), is amended by deleting the words “youth development” and by substituting instead the words “children’s services”.

SECTION 28. Tennessee Code Annotated 8-42-101, is amended by deleting the language “community health agency” wherever it appears and by substituting instead the language “community services agency”. This section is further amended by deleting the language “community health agencies” wherever it appears and by substituting instead the language “community services agencies”.

SECTION 29. Tennessee Code Annotated, Section 10-7-504, is amended by deleting the words “department of youth development” wherever they appear and by substituting instead the words “department of children’s services”.

SECTION 30. Tennessee Code Annotated, Section 16-1-105, is amended by deleting the words “department of youth development” wherever they appear and by substituting instead the words “department of children’s services”.

SECTION 31. Tennessee Code Annotated, Section 33-3-104(5), is amended by adding the words and punctuation “legal custodian,” after the word and punctuation “guardian,”.

SECTION 32. Tennessee Code Annotated, Section 33-3-104 (7)(B), is amended by adding the words and punctuation “legal custodian,” after the word and punctuation “guardian,”.

SECTION 33. Tennessee Code Annotated, Section 33-3-104(8), is amended by adding the words and punctuation “legal custodian,” after the word and punctuation “guardian,”.

SECTION 34. Tennessee Code Annotated, Section 33-3-105(a)(1), is amended by adding the words and punctuation “legal custodian,” after the word and punctuation “guardian,”.

SECTION 35. Tennessee Code Annotated, Section 33-3-105(a)(2)(A), is amended by adding the words and punctuation “legal custodian,” after the word and punctuation “guardian,”.

SECTION 36. Tennessee Code Annotated, Section 33-3-107(b), is amended by adding the words and punctuation “, legal custodian,” after the word “guardian”.

SECTION 37. Tennessee Code Annotated, Section 33-3-203 (a)(4), is amended by deleting the words “mental health and mental retardation” and by substituting instead the words “children’s services”.

SECTION 38. Tennessee Code Annotated, Section 33-3-203(e) is amended by deleting the subsection in its entirety and substituting instead the following new language:

(e) If a minor no longer meets the standards under which the minor was committed to the custody of the department under subsection (a), the department shall make a full report of the status of the minor to the committing court. If the committing court objects to the termination of the department's custody, the court shall set a hearing on the matter within 15 days of the date of the report. The department shall retain custody pending the outcome of the hearing. If the court does not set a hearing, the department's custody terminates at the end of the fifteenth (15th) day after the date of the report unless the court has approved an earlier termination.

SECTION 39. Tennessee Code Annotated, Section 33-3-203 is amended by adding the following language as a newly designated subsection (h):

(h) For purposes of this section only, the word department shall mean the department of children's services.

SECTION 40. Tennessee Code Annotated, Section 33-3-401(a) is amended by deleting the section in its entirety and substituting instead the following new language:

33-3-401. Mentally ill or retarded minors in youth development centers. (a) If the superintendent of a youth development center of the department of children's services determines, on the basis of a written report of a licensed physician or licensed psychologist designated as a health service provider, that a minor in that youth development center is:

(1) Mentally ill or mentally retarded; and

(2) In need of residential care and treatment for that condition which cannot be provided by the department of children's services and which can be provided at a residential facility of the department of mental health and mental retardation; the superintendent of the youth development center shall order the minor's transfer and shall notify the person of the decision and the reason therefor in writing not less than twenty-four (24) hours in advance of the proposed transfer.

SECTION 41. Tennessee Code Annotated, Section 33-3-401 (b) (1), is amended by deleting subdivision (1) in its entirety and by substituting instead the following language:

(1) If the person does not object to the transfer within twenty-four (24) hours of the notification of the proposed transfer, the person shall be transferred to the appropriate residential program of the department of mental health and mental retardation which is designated by the commissioner of mental health and mental retardation as having available suitable accommodations. The department of children's services shall retain legal custody of the minor after the minor has been transferred to an appropriate residential program of the department of mental health and mental retardation.

SECTION 42. Tennessee Code Annotated, Section 33-3-401(b)(2) is amended by deleting the word "director", and by substituting instead the words "superintendent of the youth development center". This section is further amended by deleting the words "institution of the department of youth development" and substituting instead "youth development center".

SECTION 43. Tennessee Code Annotated, Section 33-3-403 (a), is amended by deleting the words "or the department of youth development" between the word "correction" and the word "determines". This section is further amended by deleting the words "licensed clinical psychologist" and by substituting instead the words "licensed psychologist designated as a health service provider".

SECTION 44. Tennessee Code Annotated, Section 33-3-403 (a)(2), is amended by deleting the words "or the department of youth development" between the word "correction" and the word "and".

SECTION 45. Tennessee Code Annotated, Section 33-3-403 (b), is amended by deleting the words "or the department of youth development" wherever they are found.

SECTION 46. Tennessee Code Annotated, Title 33, Chapter 3, Part 4, is amended by adding this section as a new appropriately designated section:

Emergency residential care and treatment for minors in youth development centers. (a) If the superintendent of a youth development center of the department of children's services determines, on the basis of a written report of a licensed physician or a licensed psychologist designated as a health service provider, that a minor in that youth development center is:

(1) Mentally ill; and

(2) In need of emergency residential care and treatment for that condition which cannot be provided at the youth development center and which can be provided by an appropriate residential program of the department of mental health and mental retardation; the superintendent of the youth development center shall immediately have him/her transferred to a facility of the department of mental health and mental retardation designated by the commissioner of the department of mental health and mental retardation.

(b) When a minor in the custody of the department of children's services is transferred to a facility of the department of mental health and mental retardation under this section, the superintendent of the receiving facility shall convene a transfer committee not less than seven (7) nor more than fourteen (14) days thereafter, unless the person is returned to the youth development center or other appropriate program of the department of children's services before the scheduled hearing date.

SECTION 47. Tennessee Code Annotated, Section 33-3-404, is amended by deleting the words "commissioner of youth development" between the word "the" and the word "shall" and substituting instead the words "commissioner of children's services". This section is further amended by deleting the word "director" at the end of the second sentence and by substituting instead the word "superintendent".

SECTION 48. Tennessee Code Annotated, Section 33-3-408(b), is amended by adding the following new subdivision immediately following subdivision (1) and by redesignating subsequent subdivisions accordingly:

If the superintendent of the receiving department of mental health and mental retardation facility determines that the transfer of a minor offender was not appropriate, the superintendent shall immediately transfer the minor back to the youth development center or other appropriate program as designated by the commissioner of children's services.

SECTION 49. Tennessee Code Annotated, Section 33-3-408 (b)(1), is amended by inserting the words "of an adult inmate" between the words "that the transfer" and "was not appropriate". The subdivision is further amended by deleting the words "or department of youth development".

SECTION 50. Tennessee Code Annotated, Section 33-3-409, is amended by deleting the words "department of youth development" wherever they appear and by substituting instead the words "department of children's services".

SECTION 51. Tennessee Code Annotated, Section 33-3-411, is amended by deleting the section in its entirety and substituting instead the following as appropriately designated subsections:

(a) If an adult transferee runs away from a department of mental health and mental retardation institution or a program of the department which is operated by a private contractor for the department and is taken into custody within thirty (30) days after running away, the transferee shall be returned to the custody of the commissioner at a facility designated by the commissioner. If an adult transferee runs away from such an institution or program and is taken into custody more than thirty (30) days after running away, the transferee shall be returned to the custody of the commissioner of correction at a facility of the department of correction designated by the commissioner of correction.

(b) If a minor transferee runs away from a department of mental health and mental retardation institution or a program of the department which is operated by a private contractor for the department and is taken into custody within thirty (30) days after running away, the transferee shall be returned to a facility designated by the commissioner of mental health and

mental retardation. If a minor transferee runs away from such an institution or program and is taken into custody more than thirty (30) days after running away, the transferee shall be returned to the youth development center or other appropriate program as designated by the commissioner of children's services.

SECTION 52. Tennessee Code Annotated, Section 33-3-501, is amended by adding the words and punctuation "legal custodian," after the word and punctuation "guardian,".

SECTION 53. Tennessee Code Annotated, Section 33-3-605, is amended by deleting the comma (,) after the words "to the defendant's guardian" and by adding the words and punctuation "or legal custodian,".

SECTION 54. Tennessee Code Annotated, Section 33-3-612(a), is amended by adding the words and punctuation "the commissioner of the department of children's services," after the word and punctuation "plaintiff,".

SECTION 55. Tennessee Code Annotated, Section 33-3-701, is amended by deleting the section in its entirety and by substituting instead the following language:

33-3-701. Commencement of proceedings.- Judicial proceedings for the determination of whether a person may be transferred to a facility or continues to be eligible for treatment in a facility to which he or she was transferred under Title 33, Chapter 3, Parts 3 or 4, may be commenced by filing a complaint in circuit court where the receiving department of mental health and mental retardation facility is located. The person or a parent, guardian, legal custodian, spouse, or responsible adult relative of the person may initiate such proceedings.

SECTION 56. Tennessee Code Annotated, Section 33-3-702, is amended by adding the words "and to the commissioner of the department of children's services in cases involving minors in the custody of the department of children's services" immediately before the period (.) at the end of the first sentence.

SECTION 57. Tennessee Code Annotated, Section 33-6-101(d), is amended by deleting the words “department of human services” and by substituting instead the words “department of children's services”.

SECTION 58. Tennessee Code Annotated, Section 33-6-103(k)(2)(A), is amended by adding the words and punctuation "legal custodian," after the word and punctuation "guardian,".

SECTION 59. Tennessee Code Annotated, Section 33-6-103(o), is amended by adding the words and punctuation "legal custodian," after the word and punctuation "guardian,".

SECTION 60. Tennessee Code Annotated, Section 33-6-104(d), is amended by adding the words and punctuation “legal custodian,” after the word and punctuation "guardian,".

SECTION 61. Tennessee Code Annotated, Section 33-6-104(h)(1)(A), is amended by adding the words and punctuation "legal custodian," after the word "guardian".

SECTION 62. Tennessee Code Annotated, Section 33-6-107, is amended by adding the words and punctuation "legal custodian," after the word and punctuation “guardian,”.

SECTION 63. Tennessee Code Annotated, Section 33-6-108(b)(1), is amended by adding the words and punctuation “legal custodian,” after the word and punctuation “guardian,”.

SECTION 64. Tennessee Code Annotated, Section 33-6-203(d), is amended by adding the words and punctuation “, legal custodian,” after the word “attorney”.

SECTION 65. Tennessee Code Annotated, Section 33-6-204(a)(5) is amended by adding the words and punctuation “, legal custodian,” after the word “attorney”.

SECTION 66. Tennessee Code Annotated, Section 33-6-204(e)(4), is amended by adding the words and punctuation “, legal custodian,” after the word “attorney”.

SECTION 67. Tennessee Code Annotated, Title 34, is amended by deleting the words “human services” wherever they appear and by substituting instead the words “children’s services”.

SECTION 68. Tennessee Code Annotated, Section 34-11-103, is amended by deleting the words “county director” wherever they appear and by substituting instead the words “duly authorized agent of the commissioner”.

SECTION 69. Tennessee Code Annotated, Section 36, Chapter 1, Part 2, is amended by deleting the words “human services” wherever they appear and by substituting instead the words “children’s services”.

SECTION 70. Tennessee Code Annotated, Section 36-2-209, is amended by deleting the words “human services” wherever they appear and by substituting instead the words “children’s services”.

SECTION 71. Tennessee Code Annotated, Title 36, Chapter 6, Part 3, is amended by deleting the words “human services” wherever they appear and by substituting instead the words “children’s services”.

SECTION 72. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by adding the following language as a new, appropriately designated section:

37-1-____. (a) When a court desires to commit a child to the department of children’s services under this part, it shall do so by written order that finds that the child has been adjudicated dependent and neglected, unruly, delinquent, or meets the criteria in §33-3-203. If the written order fails to make a specific adjudication of the child, it shall be presumed that the court has found the child dependent and neglected. Commitments to the department shall be consistent with all other laws regarding adjudication and commitment to the department. Nothing in this part shall be interpreted as prohibiting taking children into emergency protective services custody without a prior adjudication.

(b) When a court commits a child to the department, the court shall address the issue of child support under §37-1-151 (b).

(c) The department shall prepare a form for the court to use when committing a child to custody. Such form shall be completed and transmitted along with the court's commitment order to the department at the time of the child's commitment.

SECTION 73. Tennessee Code Annotated, Title 37, Chapter 1, Parts 1, 2, 3, 4, 5 and 6; Title 37, Chapter 2, Parts 4 and 5; Title 37, Chapter 3, Parts 1, 2, 4, 5 and 6; Title 37, Chapter 4, Parts 1 and 2; and Title 37, Chapter 10, Part 3, are amended by deleting the words "youth development" and/or "human services" wherever they appear and by substituting instead the single term "children's services" so that the term "children's services" appears only once unless the context requires otherwise.

SECTION 74. Tennessee Code Annotated, Title 37, is amended by deleting the words "division of juvenile probation" wherever they appear and by substituting instead the words "department of children's services".

SECTION 75. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by adding the following new appropriately designated section:

37-1-____. (a) The court shall not direct the department of children's services' or its contractors' or agents' use or disposition of any federal funds for which any child or person in the care of the department is eligible or may receive and for which the department may be payee on behalf of such child or person including, but not limited to, Social Security Survivors benefits under Title II of the federal Social Security Act, and supplemental security income benefits under Title XVI of the federal Social Security Act, foster care or adoption assistance benefits received pursuant to Title IV-E of the Adoption Assistance Act of 1980 of the federal Social Security Act, or veteran's benefits, railroad retirement benefits, or black lung benefits or any successor entitlements which are provided by federal law.

(b) Funds received under any federal benefits programs shall be processed, utilized, and accounted for by the department pursuant only to federal regulations or federal court orders governing those programs.

SECTION 76. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by adding the following language as a new, appropriately designated section:

37-1-___. The department of children's services may review the status of any person who has reached the age of eighteen (18) while in the department's legal custody to determine if the person should remain in the care of the department in order to complete high school or other educational training or for the purpose of receiving other services. The department may continue to provide services to the person who chooses to remain in the care of the department on a voluntary basis, subject to funding availability and budgetary constraints.

SECTION 77. Tennessee Code Annotated, Section 37-1-102(b) is amended by adding the following as an appropriately designated subdivision:

() "Abuse or Neglect" exists when any person under the age of 18 has sustained an injury or is in immediate danger of being injured by the actions or inactions of parent, relative, guardian, or caretaker.

For purposes of this definition, an injury is significant physical trauma to the child including, but not limited to:

Broken bones; eye socket injury; brain or spinal cord injury; puncture wounds; abrasions; auditory damage; any type of burn or bruising on any part of the body of a child age two or younger that is not the result of an accident, normal developmental activity, or developmentally appropriate discipline; deep penetrating contusions on the body of a child over two years of age; any sexual contact as stated in 37-1-602; use of life threatening weapons against the child; or any other willful or knowing behavior that may cause any of the above injuries.

Injury shall also include, but is not limited to, repeated and continuous failure to provide minimally adequate food, medical care, shelter, or supervision. It may also include psychological abuse that is determined to cause or is likely to cause profound emotional damage.

Injury does not include parental behavior or life-style choices of parents/caretakers that have no impact on the care, condition, or well-being of the child.

SECTION 78. Tennessee Code Annotated, Section 37-1-102(b)(3) and (4), are amended by deleting subdivisions (3) and (4) in their entireties and by substituting instead the following language:

(3) "Adult" means any person eighteen (18) years of age or older;

(4)(A) "Child" means a person under eighteen (18) years of age;

(B) No exception shall be made for a child who may be emancipated by marriage or otherwise.

(C) The above definition shall be effective July 1, 1996, before which date the definition of "child" shall be the definition found in §37-1-102(b)(4), 1995 supplement to the Tennessee Code Annotated.

SECTION 79. Tennessee Code Annotated, Section 37-1-102(b)(10)(g) is amended by deleting the section in its entirety and substituting instead the following language:

(g) Who is suffering from abuse or neglect;

SECTION 80. Tennessee Code Annotated, Section 37-1-102(b)(12), is amended by inserting the word "delinquent" between the words "supervision of a" and "child by the".

SECTION 81. Tennessee Code Annotated, Section 37-1-102(b)(13) is amended by deleting the section in its entirety and substituting instead the following language:
"Home placement" means placement of a delinquent child in the home of a parent or guardian under the continuing supervision of the department of children's services. Placing a child on home placement terminates the department's legal custody of a delinquent child.

SECTION 82. Tennessee Code Annotated, Section 37-1-102(b)(19)(A) is amended by deleting the words and punctuation "conditions of brutality,".

SECTION 83. Tennessee Code Annotated, Section 37-1-102(b)(21), is amended by deleting the section in its entirety and substituting instead the following new language:

(21)(A) "Unruly child" means a child in need of treatment and rehabilitation who having received services from a juvenile-family crisis intervention program under §§37-1-168 and 37-1-169 and who having been certified for referral to the juvenile court by such juvenile-family crisis intervention program continues to:

(i) Habitually and without justification, be truant from school while subject to compulsory school attendance under § 49-6-3007; or

(ii) Habitually be disobedient of the reasonable and lawful commands of the child's parent(s), guardian or other legal custodian to the degree that such child's health and safety are endangered; or

(iii) Commit an offense which is applicable only to a child; or

(iv) Be away from the home residence, or any other residential placement of his parent(s), guardian, or other legal custodian without their consent. Such child shall be known and defined as a "runaway".

(B) The above definition shall be effective July 1, 1996, before which date the definition of "unruly" shall be the definition found in §37-1-102(b)(21), 1995 supplement to the Tennessee Code Annotated.

SECTION 84. Tennessee Code Annotated, Section 37-1-102(b) is amended by adding the following language as new appropriately designated subdivisions:

() "Commissioner" means commissioner of the department of children's services.

() "Department" means department of children's services.

SECTION 85. Tennessee Code Annotated, Section 37-1-103(c), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(c) When jurisdiction has been acquired under the provisions of this part, such jurisdiction shall continue until the child reaches the age of eighteen (18).

SECTION 86. Tennessee Code Annotated, Section 37-1-128(c), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(c)(1) At any time prior to a child being adjudicated unruly or dependent and neglected, or before the disposition of a child who has been adjudicated delinquent, unruly, or dependent and neglected, the court may order that the department of children's services make an assessment of the child and report the findings and recommendations to the court. Such order of referral shall confer authority to the department of children's services or its designees to transport the child and to obtain any necessary evaluations of the child without further consent of the parent(s), legal custodian, or guardian.

If during the evaluation or assessment, the department of children's services determines that there is a need for treatment for either the mental or physical well being of the child, consent of the parent(s), guardian, or current legal custodian shall be obtained. If such consent cannot be obtained, the department of children's services may apply to the court for authorization to provide consent on behalf of the child. Provided, however, if a child is suspected of being in need of or is eligible for special education services, then state and federal laws governing evaluation and placement must be followed.

(2) A report to the court of the department of children services' recommendations shall be made within thirty (30) days following the court's order of referral. The department of children's services shall include in the report a review of the child's previous records including, but not limited to, health and education records, a review of the child's family history and current family status, and a written recommendation concerning the child's status.

(3) Any order of the court which places custody of a child with the department of children's services shall empower the department to select any specific residential or treatment placements or programs for the child according to the determination made by the department, its employees, agents, or contractors.

SECTION 87. Tennessee Code Annotated, Section 37-1-128 (f), is amended by deleting the subsection in its entirety.

SECTION 88. Tennessee Code Annotated, Section 37-1-128 is amended by adding the following language as a new appropriately designated subsection:

() After adjudication, but prior to the disposition of a child found to be dependent and neglected, delinquent, unruly, or in need of services under § 33-3-203, the court may place the child in custody of the department of children's services for the purpose of evaluation and assessment if the department has a suitable placement available for such purpose. If the department determines that there is no suitable placement available, the court shall not order the department to take custody of the child for the purpose of evaluation and assessment. Such pre-disposition custody shall last for a maximum of 45 days and the court shall have a hearing to determine the appropriate disposition before the expiration of the 45 days.

SECTION 89. Tennessee Code Annotated, Section 37-1-129, subsections (e) and (g), are amended by deleting the subsections in their entireties, and adding the following language as a new subsection (e):

(e) Any order of the court which places custody of a child with the department of children's services shall empower the department to select any specific residential or treatment placements or programs for the child according to the determination made by the department, its employees, agents, or contractors.

SECTION 90. (a) Tennessee Code Annotated, Section 37-1-130(a), is amended by deleting the word "Permit" in subdivision (1) and by substituting instead the following words and punctuation:

Subject to the restrictions of § 37-1-129(e), permit

(b) Tennessee Code Annotated, Section 37-1-130(a), is further amended by adding the following words and punctuation after the word "Subject" in the first line of subdivision (2):

to the restrictions of § 37-1-129(e), and subject to

SECTION 91. Tennessee Code Annotated, Section 37-1-130, is amended by adding the following language as a newly designated subsection (e):

(e)(1) When the department determines that a child who has been committed to the department under this section is ready to return home, the department shall notify the court in writing of its intention to place the child at home on a trial home visit. If the court objects to the trial home visit, it must notify the department of its objection in writing or set a hearing within fifteen (15) days of the date of the notice. If the hearing is not set nor a written objection received within fifteen (15) days of the date of the notice, the department may place the child on a trial home visit. The notice shall include the provision that the department's legal custody of the child shall terminate in ninety (90) days.

(2) If during the ninety (90) day period the department determines that the trial home visit is not in the child's best interest and removes the child on an emergency basis or seeks to remove the child on a non-emergency basis, the department shall file a motion for review by the court of the trial home visit and shall provide notice to the parent(s), guardian, or other custodian. The court shall set a hearing on such motion within three (3) days of an emergency removal and within fifteen (15) days if the motion seeks the court's permission to make a non-emergency removal.

(3) During the ninety (90) day trial home visit, the court may periodically review the child's status and may make any orders that the best interest of the child may require.

SECTION 92. Tennessee Code Annotated, Section 37-1-131(4) is amended by deleting the subsection in its entirety and by substituting instead the following:

"Subject to the restrictions of §37-1-129(e), commit the child to the department of children's services, which commitment shall not extend past the child's eighteenth birthday;"

SECTION 93. Tennessee Code Annotated, Section 37-1-131 is amended by adding the following language as a new subsection (7) with the remaining subsection designated accordingly:

(7) Ordering the child to perform community service work with such work being in compliance with federal and state child labor laws; or

SECTION 94. Tennessee Code Annotated, Section 37-1-132, is amended by adding the following language as a newly designated subsection (c):

(c)(1) When the department determines that a child who has been committed to the department under this section is ready to return home, the department shall notify the court in writing of its intention to place the child at home on a trial home visit. If the court objects to the trial home visit, it must notify the department of its objection in writing or set a hearing within fifteen (15) days of the date of the notice. If a hearing is not set nor a written objection received within fifteen (15) days of the date of the notice, the department may place the child on a trial home visit. The notice shall include the provision that the department's legal custody of the child shall terminate in ninety (90) days.

(2) If during the thirty (30) day period the department determines that the trial home visit is not in the child's best interest and removes the child on an emergency basis or seeks to remove the child on a non-emergency basis, the department shall file a motion for review by the court of the trial home visit and shall provide notice to the parent(s), guardian, or other custodian. The court shall set a hearing on such motion within three (3) days of an emergency removal and within fifteen (15) days if the motion seeks the court's permission to make a non-emergency removal.

(3) During the thirty (30) day trial home visit, the court may periodically review the child's status and may make any orders that the best interest of the child may require.

SECTION 95. Tennessee Code Annotated, Section 37-1-134 is amended by adding the following language as a new subsection (7) with the remaining subsection appropriately re-designated:

(7) If a person eighteen (18) years of age or older is to be charged with an offense which occurred prior to the person's eighteenth (18th) birthday, such person shall be charged in the court that would have had jurisdiction if the person had been an adult at the time of the commission of the offense. However, if the person was not subject to transfer to criminal court

for prosecution as an adult under this section at the time of the offense, no action shall be taken.

SECTION 96. Tennessee Code Annotated, Section 37-1-137, is amended by deleting the catchline in its present form and by substituting instead the following:
Commitment of delinquent children to the department of children's services.

SECTION 97. Tennessee Code Annotated, Section 37-1-137(a)(1)(A), is amended by inserting the word "delinquent" between the words "court committing a" and "child to the custody of".

SECTION 98. Tennessee Code Annotated, Section 37-1-137(a)(1) is amended by deleting paragraph (B) in its entirety and redesignating the remaining paragraph.

SECTION 99. Tennessee Code Annotated, Section 37-1-137(a) (1)(C) is amended by deleting the word "eighteenth" and substituting instead the word "seventeenth". The section is further amended by deleting the word "nineteenth" and substituting instead the word "eighteenth".

SECTION 100. Tennessee Code Annotated, Section 37-1-137(c)(1) is amended by adding the words and punctuation "or sets a hearing," after the words and punctuation "commissioner's designee," and before the words "within the fifteen-day".

SECTION 101. Tennessee Code Annotated, Section 37-1-137 is amended by deleting subsections (d) through (f) in their entirety and substituting instead the following new language:

(d) If the designee of the department supervising a delinquent child on home placement has reasonable cause to believe that such child has violated the conditions of his home placement in an important respect, the designee may file a petition alleging a violation of home placement. Notwithstanding any other provision of law to the contrary, the court may require that the child be placed in detention pending adjudication of the petition. The department is prohibited from taking the child into custody until the court finds that the child has violated

conditions of his home placement and the court terminates the home placement. Nothing herein shall prevent the transfer of a juvenile under §37-1-134.

(e) The juvenile court which committed the delinquent child to the department retains jurisdiction to determine allegations of violation of home placement. Such court shall schedule a hearing within seven (7) days of the time the child is placed in detention and cause written notice to be served on the child, his parent(s), guardian or other custodian, and the department's designee a reasonable time before the hearing. The written notice shall contain a copy of the petition and any other written report or statement detailing the violation(s) as well as the time, place, and purpose of the hearing. At the hearing, the court shall allow the child to be heard in person and to present witnesses or documentary evidence. The child shall also have the right to confront and cross-examine witnesses.

(f) If the court finds that no violation has occurred, the child shall be allowed to resume the former conditions of his home placement. If the court finds that:

(1) A violation occurred; and

(2) The violation was serious enough to justify termination; it shall order that the child be re-committed to the department. Such order shall contain the reasons relied on for terminating the home placement. Upon such termination, the child may be placed as the commissioner or the commissioner's designee may direct. The child may appeal the disposition of the court as provided in T.C.A. Section 37-1-159.

SECTION 102. Tennessee Code Annotated, Section 37-1-137(g)(1) is amended by adding the following words "or sets a hearing" after the words "commissioner's designee" and before the words "within the fifteenth (15th) day".

SECTION 103. Tennessee Code Annotated, Section 37-1-150, is amended by adding the following language as a new subsection:

(g) Costs for proceedings under this title or the costs of the care or treatment of any child which are ordered by the court shall be paid by the state only when specifically authorized by this title or other provisions of law.

SECTION 104. Tennessee Code Annotated, Section 37-1-159(c), is amended by deleting the words “or the termination of parental rights”.

SECTION 105. Tennessee Code Annotated, Section 37-1-163, is amended by deleting the section in its entirety.

SECTION 106. Tennessee Code Annotated, Section 37-1-168, is amended by deleting the words "shall establish up to five (5)". This section is further amended by deleting the words "State of Tennessee" wherever they appear and substituting instead the words "department of children's services". This section is further amended by deleting the word “pilot” wherever it appears.

SECTION 107. Tennessee Code Annotated, Section 37-1-169, is amended by deleting the words “with a pilot juvenile family crisis intervention program” after the word and punctuation “rules,”.

SECTION 108. Tennessee Code Annotated, Section 37-1-203, is amended by inserting the words “of a delinquent child” between the words “order commitment” and “to the department of youth development”. This section is further amended by deleting the words “department of youth development” and by substituting instead the words “department of children’s services”.

SECTION 109. Tennessee Code Annotated, Title 37, Chapter 2, Part 1, is amended by deleting this part in its entirety.

SECTION 110. Tennessee Code Annotated, Title 37, Chapter 2, Part 2, is amended by deleting the words “youth development” wherever they appear and by substituting instead the words “children’s services”.

SECTION 111. Tennessee Code Annotated, Title 37, Chapter 2, Part 4, is amended by deleting the words “foster care plan” wherever they appear and by substituting instead the words “plan of care”.

SECTION 112. Tennessee Code Annotated, Section 37-2-402 is amended by deleting the semicolon (;) at the end of subsection (5) and by inserting a period (.) and by adding the following language after the period (.):

Notwithstanding the other provisions of this part, the department of children’s services shall by rules promulgated pursuant to §§ 4-5-201 et seq., determine which children, whose last commitment to the department was or whose commitment to the department may be based upon an adjudication of delinquency, will be subject to foster care review pursuant to the terms of this part; provided, however, such child must have an administrative review no less than ninety (90) days after commitment and no less than every six (6) months thereafter which is conducted by appropriate staff within the department concerning the child’s status and progress in reaching the goals established in the written document for the child’s care set forth in subsection (8).

Tennessee Code Annotated, Section 37-2-402 is further amended by deleting subsection (8) in its entirety and by substituting instead the following language:

“Plan” or “plan of care” means a written plan for a child placed in foster care with the department of children’s services or in the care of an agency as defined in subsection (1) and as provided in § 37-2-403. Notwithstanding any other provisions of this part, a delinquent child in the care of the department of children’s services for whom the department of children’s services elects not to be subject to foster care review pursuant to this part and who does not have a plan or plan of care as set forth in §§ 37-2-402 and 37-2-403, shall have a written document for that child which is developed to provide guidelines and goals for that child’s placement and care with the department.

SECTION 113. Tennessee Code Annotated, Section 37-2-403, is amended by adding the following language as a new subsection (c):

(c) The statement of responsibilities on a plan of care which are ordered by the court shall empower the state agency to select any specific residential or treatment placement or programs for the child according to the determination made by that state agency, its employees, agents, or contractors.

SECTION 114. Tennessee Code Annotated, Section 37-2-408, is amended by deleting the section in its entirety and by substituting instead the following:

(a) All records, reports, plans of care, reviews and reports of the foster care review boards or any material prepared in connection with the planning, placement, or care of a child in the care or custody of the department of children's services or in foster care with any agency or person pursuant to this part, shall be confidential and shall not be a public record and shall be disclosed only for the purposes directly related to the administration of this part, or as permitted pursuant to the provisions of §§37-1-409 or 37-1-612, or as otherwise determined by the department of children's services to be reasonably necessary or reasonably required and as directly related to the provision of any services needed by the child.

(b) A violation of this section is a Class B misdemeanor.

SECTION 115. Tennessee Code Annotated, Section 37-2-409 is amended by deleting the second sentence of subsection (a) and substituting instead the following:

As long as a child remains in foster care, subsequent dispositional hearings conducted pursuant to subsection (b) shall be held no less frequently than every twelve (12) months for each child, or as otherwise required by federal regulations.

Tennessee Code Annotated, Section 37-2-409 is further amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b)(1) The purpose of these dispositional hearings shall be to determine the future status of the child, including, but not limited to, whether the child should be returned to the parent,

should be continued in foster care for a specified period, should be placed for adoption, or should, because of the child's special needs or circumstances, be continued in foster care on a permanent or long-term basis, and shall determine the extent of compliance of all parties with the terms of the plan of care, and the extent of progress in achieving the goal of the plan. In the case of a child who has attained age sixteen (16), the hearing shall, in addition, determine the services needed to assist the child to make the transition from foster care to independent living.

(2) At this hearing, all evidence which would be admissible at a dispositional hearing pursuant to §37-1-129 shall be admissible. In the event the court finds that any party has not complied with the terms of the plan of care for the child, it may, consistent with the provisions of §§ 37-1-129(e) and 37-2-403(d), issue such orders as may be appropriate to enforce compliance. Parental rights may not be terminated except in accordance with a petition filed for that purpose filed pursuant to Title 37, Chapter 1, Part 1 or this part.

SECTION 116. Tennessee Code Annotated, Section 37-2-410, is amended by adding the following language and punctuation after the word "may" and before the word "modify":

,consistent with the provisions of §§ 37-1-129(e) and 37-2-403(d),

SECTION 117. Tennessee Code Annotated, Title 37, Chapter 2, Part 4 is amended by adding the following new section:

37-2-413. Rulemaking by the department of children's services to comply with federal regulations.-- (a) The department of children's services is authorized to adopt mandatory rules binding on the courts and agencies subject to this part to implement the provisions of any changes in federal law relative to compliance with any foster care review processes set forth in federal law.

(b) Notwithstanding any other law to the contrary, the department shall have authority to implement any rules which may be required pursuant to subsection (a) by public necessity rules to be effective immediately upon approval by the attorney general and reporter and filing with

the secretary of state's office; provided, however, any permanent rules must follow the provisions of § 4-5-201 et seq.

SECTION 118. Tennessee Code Annotated, Title 37, Chapter 3, Part 2 is amended by deleting this part in its entirety.

SECTION 119. Tennessee Code Annotated, Title 37, Chapter 3, Part 3 is amended by deleting this part in its entirety.

SECTION 120. Tennessee Code Annotated, Section 37-3-602(1) is amended by deleting the subsection in its entirety and substituting instead the following new language as an appropriately designated subsection:

() "imminent risk of placement" means circumstances or behavior likely to produce, within a relatively short period of time, a reasonably strong probability that the child will be placed in state custody as a result of being adjudicated dependent and neglected, delinquent, unruly, or in need of mental health services under § 33-3-203.

SECTION 121. Tennessee Code Annotated, Section 38-6-109, is amended by deleting words "human services" wherever they appear and by substituting instead the words "children's services".

SECTION 122. Tennessee Code Annotated, Section 38-6-110, is amended by deleting the words "department of youth development" and "department of human services" wherever they appear and by substituting instead the words "department of children's services".

SECTION 123. Tennessee Code Annotated, Title 39, Chapter 13, Part 7, is amended by deleting the words "human services" wherever they appear and by substituting instead the words "children's services".

SECTION 124. (a) Tennessee Code Annotated, Section 39-15-207, is amended by deleting the words "human services" and by substituting instead the words "children's services".

(b) Tennessee Code Annotated, Section 39-15-207, is further amended by deleting the code reference "§ 34-1-105" and by substituting instead the code reference "§ 34-11-103".

SECTION 125. Tennessee Code Annotated, Section 39-16-601 is amended by deleting subsection (4) in its entirety and substituting instead the following language:

(4) “Penal Institution” for the purposes of this part includes any institution or facility used to house or detain a person:

(A) Convicted of a crime; or

(B) Adjudicated delinquent by a juvenile court; or

(C) Who is in direct or indirect custody after a lawful arrest.

SECTION 126. Tennessee Code Annotated, Section 40-25-129, is amended by deleting the words “department of youth development” wherever they appear and by substituting instead the words “department of children’s services”.

SECTION 127. Tennessee Code Annotated, Section 40-32-101, is amended by adding the words “department of children’s services or” before the words “department of human services” wherever they appear.

SECTION 128. Tennessee Code Annotated, Section 41-4-140 (a)(1) is amended by deleting the words “workhouse and detention facilities” and substituting instead the words “and workhouses”.

SECTION 129. Tennessee Code Annotated, Section 41-4-140 (a)(2) is amended by deleting the words “workhouses and detention facilities” and substituting instead the words “and workhouses”.

SECTION 130. Tennessee Code Annotated, Section 41-4-140 (c)(1) is amended by deleting the words “workhouse or detention facility” and substituting instead the words “or workhouse”.

SECTION 131. Tennessee Code Annotated, Section 41-4-140 (c)(2) is amended by deleting the words “workhouses and detention facilities” and substituting instead the words “and workhouses”.

SECTION 132. (a) Tennessee Code Annotated, Title 41, Chapter 5, Part 1 is amended by deleting the words “commissioner of youth development” wherever they appear and by substituting instead the words “commissioner of children’s services”.

(b) Tennessee Code Annotated, Title 41, Chapter 5, Part 1 is further amended by deleting the words “department of youth development” wherever they appear and by substituting instead the words “department of children’s services”.

SECTION 133. Tennessee Code Annotated, Section 41-5-109 is amended by deleting subsection (a) in its entirety and re-designating the remaining subsections.

SECTION 134. Tennessee Code Annotated, Section 41-5-112, is amended by deleting the section in its entirety.

SECTION 135. Tennessee Code Annotated, Title 41-5-115, is amended by deleting the section in its entirety.

SECTION 136. Tennessee Code Annotated, Title 41-5-121, is amended by deleting the section in its entirety.

SECTION 137. Tennessee Code Annotated, Title 41, Chapter 5, Part 1 is transferred to an appropriately designated Part in Title 4, Chapter 3.

SECTION 138. Tennessee Code Annotated, Section 41-7-103 (4) is amended by deleting the words “workhouse detention facilities” and substitute instead the word “workhouses”.

SECTION 139. Tennessee Code Annotated, Sections 41-10-201 through 41-10-205 are amended by deleting them in their entireties.

SECTION 140. Tennessee Code Annotated, Title 49, is amended by deleting the words “youth development” wherever they are found and substituting instead the words “children’s services”.

SECTION 141. Tennessee Code Annotated, Section 49-1-508 is amended by deleting the words "human services" and substituting instead the words "children's services".

SECTION 142. Tennessee Code Annotated, Section 49-2-115, is amended by deleting the words “human services” wherever they appear and by substituting instead the words “children’s services”.

SECTION 143. Tennessee Code Annotated, Section 49-6-1304, is amended by deleting the words “human services”.

SECTION 144. Tennessee Code Annotated, Section 49-6-3007(f), is amended by deleting the subsection in its entirety and by substituting instead the following:

(f) The superintendent of any local school system, after written notice to the parent or guardian of a child, shall report any child who is habitually and unlawfully absent from school to the appropriate judge having juvenile jurisdiction in that county, each case to be dealt with in such manner as the judge may determine to be in the best interest of the child, consistent with the provisions of §§37-1-168 and 37-1-169 and in the event the child is adjudicated to be unruly, the judge may assess a fine of up to fifty dollars (\$50.00) or five (5) hours of community service, in the discretion of the judge, against the parents or legal guardians of children in grades kindergarten through twelve (K-12) if the child is absent more than five (5) days during any school year.

SECTION 145. Tennessee Code Annotated, Section 49-50-1001 (1), is amended by deleting the words “the Tennessee Preparatory School”.

SECTION 146. Tennessee Code Annotated, Section 66-29-151(b) is amended by deleting the words “advisory council that is established by §68-2-1110” in the second sentence and by substituting instead the words “chair of each board for the community services agencies”. This section is further amended by deleting the word “council” in the third sentence and by substituting instead the words “chairs of the boards of the community services agencies”.

SECTION 147. Tennessee Code Annotated, Section 68-1-1202, is amended by deleting the words “human services” and “youth development” wherever they appear and by substituting instead the words “children’s services”.

SECTION 148. Tennessee Code Annotated, Section 68-1-1403, is amended by deleting the words “human services” wherever they appear and by substituting instead the words “children’s services”.

SECTION 149. Tennessee Code Annotated, Title 68, Chapter 2, Part 11, is deleted in its entirety and Sections 1 through 16 are substituted as a new Part 11.

SECTION 1. Short Title. This part shall be known and may be cited as the “Community Services Agency Act of 1996”.

SECTION 2. Community Services Agencies - Purpose. The purpose of this part is to provide a mechanism to facilitate the provision of services for children and other citizens in need of services in Tennessee through centralized agencies located throughout the state. The community services agencies may contract with the department of children’s services and other agencies to provide assistance wherever needed.

SECTION 3. Definitions. - As used in this part, unless the context otherwise requires:

- (1) “Agency” means the community services agency;
- (2) “Board” means the community services agency board;
- (3) “Commissioner” means the commissioner of the department of children’s services or the commissioner’s designee;
- (4) “Department” means the department of children’s services;
- (5) “Executive director” means the chief administrative officer of a community services agency; and
- (6) “Child” means a minor who has been placed in the custody of the department of children’s services or who is at imminent risk of being placed in such custody.

SECTION 4. Agencies - Establishment - Public Function and Purpose. - (a) The commissioner is authorized to establish community services agencies as provided in this part. These agencies will provide coordination of funds or programs designated for care of children and other citizens in the state.

(b) The commissioner may establish four (4) community services agencies in the following metropolitan areas:

- (1) Memphis and Shelby County;
- (2) Metropolitan Nashville-Davidson County;
- (3) Knoxville and Knox County; and
- (4) Chattanooga and Hamilton County.

(c) The commissioner may establish eight (8) community services agencies in rural areas of the state coterminous with the boundary lines of the rural public health regions established by the commissioner of health.

(d) The community services agency shall be a political subdivision and instrumentality of the state. As such, it shall be deemed to be acting in all respects for the benefit of the people of the state in the performance of essential public functions, and shall be deemed to be serving a public purpose through improving and otherwise promoting the well-being of children and other citizens of the state.

SECTION 5. Community services agency board - Creation - Members. - (a) There is hereby created in each community services agency a body politic and corporate to be known as the community services agency board.

(b) The membership of each board serving a rural community services agency shall be appointed by the governor and consist of a representative of each county within the agency boundary and the commissioner or the commissioner's designee.

(c) The membership of each board servicing a metropolitan community services agency shall consist of at least eleven (11) members appointed by the governor and shall include the commissioner or the commissioner's designee.

(d) The members of each board shall be appointed with a conscious intention of reflecting a diverse mixture with respect to race and gender.

(e) The term of a member of the board shall be four (4) years with the terms staggered so as to replace no more than one fourth (1/4) of the members each year. Members of the boards may be reappointed after their terms expire.

(f) Members of the board shall continue in office until the expiration of the terms for which they were respectively appointed and until such time as their successors are appointed.

(g) Vacancies occurring on the board by such reasons as death or resignation shall be filled in the same manner as a regular appointment for the remainder of the unexpired terms.

(h) Members of the board shall not be compensated for services rendered to the agency but will receive from the agency reimbursement for actual expenses to be paid in accordance with the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(i) The board shall elect a chair from among its members. The board shall also elect other officers as the board finds necessary and appropriate. Such positions are for a period of one (1) year, but officers may be reelected to serve additional terms.

(j) If any matter before the board involves a project, transaction or relationship in which a member or the member's associated institution, business or board has a direct or a conflicting interest, the member shall make known to the board that interest and shall be prohibited from participating in discussions and voting on that matter.

(k) Any person serving on the board for a community services agency, formerly a community health agency, shall serve on their respective community services board until the expiration of the term for which such person was appointed.

SECTION 6. Community Services Agency Board - Powers. - The board has the following powers and duties in addition to the powers and duties granted to or imposed upon it by other sections of this part to:

(1) Adopt written policies, procedures, or rules and regulations to govern its internal operations. If such rules and regulations are proposed, they must be submitted for prior approval to the commissioner;

(2) Make and execute contracts and all other instruments necessary or convenient for the exercise of its duties and responsibilities under this part. All contracts pertaining to acquisitions and improvement of real property, pursuant to §4-15-102, must be approved in advance by the commissioner and the state building commission. Contracts for services must be approved pursuant to rules and regulations promulgated by the commissioner.

(3) Acquire or dispose of in the name of the board, real or personal property or any interest therein, including rights or easements, on either a temporary or long-term basis by gift, purchase, transfer, foreclosure, lease or otherwise, subject to subdivision(2);

(4) Procure insurance in amounts and from insurers which it deems desirable to protect itself in carrying out its duties and responsibilities under this part;

(5) Seek assistance from the commissioner of finance and administration, the comptroller of the treasury, the state treasurer, and other state agencies;

(6) Receive, administer, allocate and disburse funds made available under this part, funds and contributions from private or local public sources which may be used in support of a community services program, and funds made available under any federal or state assistance program which an agency organized in accordance with the provisions of this part may serve as grantee, contractor, or sponsor of projects appropriate for inclusion in community services programs;

(7) Perform other acts necessary or convenient to exercise the powers granted or reasonably implied in this part;

(8) Procure goods, materials, supplies and equipment in accordance with applicable state or federal guidelines, and where practical, on a competitive basis; and

(9) Contract with other state agencies to provide services to those agencies as deemed appropriate by the board.

SECTION 7. Commissioner of children's services. - Duties, powers. - The commissioner has the duty and responsibility to:

(1) Promulgate rules and regulations to carry out the commissioner's responsibilities under this part.

(2) Review and approve plans of operation submitted in accordance with § 10, with the concurrence of the commissioner of finance and administration and the comptroller of the treasury;

(3) Enter into such contracts, subject to applicable rules and regulations and procedures, as necessary to carry out the provisions of this part.

(4) Appoint an executive director for each agency to serve as chief administrative officer of the agency;

(5) Require each agency to submit annual reports on each preceding fiscal year to reflect the nature and extent of all financial transactions and to assure financial integrity; and

(6) Perform other acts necessary or convenient to exercise the powers granted or reasonably implied in this part.

SECTION 8. Executive director - Employees and expenses. The executive director, subject to approval of the board and approval of the plan of operation pursuant to § 10, has the authority to hire such employees and incur such expenses as may be necessary for proper discharge of the duties of the community services agency.

SECTION 9. Contracts for provisions of services - Termination. - (a) The community services agency shall, to the maximum extent possible, contract with private providers, clinics

and local governments pursuant to § 10 for the provision of services for children and other citizens of the state.

(b) The agency shall terminate a contract under the following conditions;

(1) Fraud or misappropriation of funds;

(2) Delivery of services under the contract in a manner not consistent with the appropriate standard of care; or

(3) Other reasons provided under § 10 and rules and regulations of the commissioner promulgated pursuant to this part.

(c) Additionally, the community services agency shall have authority to terminate a contract for cause.

SECTION 10. Plan of operation. - (a) At least ninety (90) days prior to the beginning of each state fiscal year, the board shall submit a plan of operation for review and approval to the commissioners of children's services and finance and administration and the comptroller of the treasury. The plan of operation shall be in such form as may be required by the department and shall include, but not be limited to, the following:

(1) A budget for operating and capital expenditure;

(2) Contracts for services;

(3) Appropriate policies and procedures adopted by the board to govern the expenditure of funds; and

(4) Other items as required by the department through rules and regulations.

(b) The plan of operation may be amended during the fiscal year with the written approval of the commissioners of children's services and finance and administration and the comptroller of the treasury.

(c) For the first year of operation, a plan of operation shall be submitted within 60 days after July 1, 1996.

SECTION 11. Disposition of funds. - (a) The executive director of each agency shall deposit with the state treasurer funds received from the United States Treasury and other funds earned, given or granted to the agency, including state funds.

(b) Such funds may be invested in the local government investment pool pursuant to Title 9, Chapter 4, Part 7.

(c) The board may establish such bank accounts pursuant to § 9-4-302, as are necessary for the efficient management of the agency.

SECTION 12. Annual reports. - (a) Each board shall make an annual report to the governor and to the commissioner.

(b) This report shall contain an accounting for all money received and expended, statistics on persons served during the year, recommendations to the governor and general assembly, and such other matters as the board deems pertinent.

SECTION 13. Annual audit - Accounting records . - (a) The comptroller of the treasury shall make an annual audit of the program established by this part as part of the comptroller's annual audit pursuant to §9-3-211.

(b) The community services agencies shall maintain all books and records in accordance with generally accepted accounting principles, and at no less than those recommended in the "Accounting Manual for Recipients of Grant Funds in Tennessee" published by the comptroller of the treasury. Such records shall be made available for inspection to the department or the comptroller of the treasury, upon request.

SECTION 14. State Employees. - Employees of the community services agencies shall be considered "state employees" for purposes of § 9-8-307. Designated volunteers providing services under this part shall also be considered "state employees" for purposes of § 9-8-307; provided, that designated volunteers who are medical professionals providing direct health care pursuant to this part shall be considered "state employees" solely for the category of "professional malpractice" pursuant to §9-8-307.

SECTION 15. Construction - Generally. - This part shall be given the following construction:

(1) This part shall be construed as remedial legislation and shall be given liberal construction to effectuate its purpose;

(2) This part shall not be construed as creating an employer-employee relationship between the department, the community services agencies or their contractors; and

SECTION 16. Participation in retirement system Community services agencies shall be eligible to be a participating employer in the Tennessee consolidated retirement system.

SECTION 150. Tennessee Code Annotated, Section 68-11-210(b), is amended by adding the words "and/or the department of children's services" after the words "department of human services".

SECTION 151. Tennessee Code Annotated, Section 68-11-1002 (a), is amended by adding the words and punctuation ",children's services" after the words "human services".

SECTION 152. Tennessee Code Annotated, Title 68, Chapter 142, Part 1, is amended by deleting the words "human services" wherever they appear and by substituting instead the words "children's services".

SECTION 153. Tennessee Code Annotated, Section 71-1-105, is amended by deleting subsections (1), (2), (5), (7), (15) and (16) in their entireties and by substituting instead the following:

(1) Administer or supervise all functions of the federal Social Security Act established or to be established in Tennessee which may be assigned to it by law, regulation, or executive order.

(2) Cooperate with the federal government or its agencies or instrumentalities, in establishing, extending, strengthening, or reforming services to assist persons and families in need of such services from the state of Tennessee.

(5) License or approve, and supervise child welfare agencies, as defined in § 71-3-501 et seq. which are placed within its jurisdiction pursuant to law.

(7) Study the causes of economic dependency or rehabilitative service requirements for persons in need of economic support or rehabilitative services in Tennessee and promote efficient methods for assisting persons in need of such support or services.

SECTION 154. Tennessee Code Annotated, Section 71-1-110(b), is amended by adding the word “adult” before the word “protective” in the first sentence.

SECTION 155. Tennessee Code Annotated, Section 71-1-116, is amended by deleting the section in its entirety.

SECTION 156. Tennessee Code Annotated, Section 71-1-124, is amended by transferring this section to a new, appropriately designated section in a new, appropriately designated part in Title 4, Chapter 3.

SECTION 157. (a) Tennessee Code Annotated, Title 71, Chapter 3, Part 4, is amended by deleting the words “human services” wherever they appear and by substituting instead the words “children’s services”.

(b) Tennessee Code Annotated, Title 71, Chapter 3, Part 4, is further amended by transferring this Part to a new, appropriately designated Part of Title 4, Chapter 3.

SECTION 158. Tennessee Code Annotated, Title 71, Chapter 3, Part 5 is amended by deleting the words “day care” or “day-care”, in upper or lower case, wherever they appear, and by substituting instead the words “child care” in the appropriate upper or lower case.

SECTION 159. Tennessee Code Annotated, Section 71-3-501 is amended by deleting subsection (a) in its entirety and by substituting instead the following language:

(a) As used in this part, unless the context otherwise requires: “child welfare agency” includes “child abuse agency,” “child-caring institution,” “child-placing agency,” “child care center,” “detention center,” “family boarding home or foster care home,” “family child care

home,” “group care home,” “group child care home,” “maternity home,” “prescribed child care center,” and “temporary holding resource,” as defined in subsection (b).

SECTION 160. Tennessee Code Annotated, Section 71-3-501(b) is amended by inserting the words and punctuation “unless otherwise excluded pursuant to §71-3-527, and” after the words “As used in this part,” and before the words and punctuation “unless the context otherwise requires:”.

SECTION 161. Tennessee Code Annotated, Section 71-3-501(b) is amended by deleting the words “person, corporation, or agency” in the first sentence of subdivision (1)(A) and by substituting instead the words “place, facility, or service operated by any entity or person”.

Subsection (b) of §71-3-501 is further amended by adding the words “any entity or” in the second sentence of subdivision (1)(A) after the words “does not include” and before the words “a person”.

Subsection (b) of §71-3-501 is further amended by renumbering subdivision (1) appropriately after amendments, if any, are made to current subdivisions (2) through (11) of subsection (b) so that the definitions therein are in alphabetical order.

SECTION 162. Tennessee Code Annotated, Section 71-3-501(b) is amended by deleting current subdivisions (2) through (11) in their entireties and by substituting instead the following subdivisions to be appropriately designated:

() “Care giver or care provider” means the entity or person(s) responsible for meeting the supervision, protection, and basic needs of the child;

() “Child care” means the provision of supervision, protection, and meeting, at a minimum, the basic needs of a child for more than three (3) hours a day, but less than twenty-four (24) hours a day;

() “Child care center” means any place or facility operated by any entity or person which provides child care for thirteen (13) or more children;

() “Child-caring institution” means any place or facility operated by any entity or person providing residential child care for thirteen (13) or more children who are not related to the primary care givers;

() “Child or children” means a person or persons under the age of eighteen (18);

() “Child-placing agency” means any entity or person which places children in foster boarding homes or foster homes for temporary care or for adoption or any other entity or person or group of persons who are engaged in providing adoption studies or foster care studies or placement services as defined by the rules of the department;

() “Department” means:

(A) Department of children’s services for purposes of licensing and/or supervision responsibility for child abuse agencies, child-caring institutions, child-placing agencies, detention centers, family boarding homes or foster care homes, group care homes, maternity homes, and temporary holding resources.

(B) Department of human services for purposes of licensing and/or supervision responsibility for child care centers, family child care homes, group child care homes, and prescribed child care centers.

(C) Whenever the terms “department” or “commissioner” are used in this part, they shall be construed within the context of the licensing responsibilities of each department or commissioner of that department as may be required by paragraphs (A) and (B), except where specifically stated otherwise;

() “Detention center” means a place or facility operated by any entity or person, governmental or otherwise, for the confinement in a hardware secure facility of a child or children who meet the criteria of § 37-1-114(c) or other applicable laws and who:

(A) Are in need of legal temporary placement;

(B) Are awaiting adjudication of a pending petition; or

(C) Are awaiting disposition and/or placement.

() “Family boarding home or foster home” means a home (occupied residence) operated by any entity or person which provides residential child care to at least one (1) child but not more than six (6) children who are not related to the primary care givers;

() “Family child care home” means a home (occupied residence) operated by any entity or person which provides child care for at least five (5) children but not more than seven (7) children who are not related to the primary care givers;

() “Foster child or children” means the person or persons who are living in a child care or residential child care facility as a result of the removal by a court of custody from the child’s parent(s) to the department of children’s services, by a surrender of parental or guardian rights executed by the child’s parent(s) or guardian, or as the result of the execution of any legal document transferring legal custody from the parent(s) or guardian of the child to the department, entity or person operating a child welfare agency.

() “Group care home” means any place or facility operated by any entity or person which provides residential child care for at least seven (7) children but not more than twelve (12) children who are not related to the primary care givers;

() “Group child care home” means any place or facility operated by any entity or person which provides child care for at least eight (8) children but not more than twelve (12) children who are not related to the primary care givers; provided, however, that up to three (3) additional school age children may be received for care on school snow days, and during summer vacation;

() “Maternity home” means any place or facility operated by any entity or person which receives, treats, or cares for more than one (1) child or adult who is pregnant out of wedlock, either before, during, or within two (2) weeks after childbirth; provided, however, that the licensed child-placing agencies and licensed maternity homes may use a family boarding home approved and supervised by the agency or home, as a part of their work, for as many as three (3) children or adults who are pregnant out of wedlock, and provided, further, that the provisions

of this definition shall not include children or women who receive maternity care in the home of a person to whom they are kin within the sixth degree of kindred computed according to civil law, nor does it apply to any maternity care provided by general or special hospitals licensed according to law and in which maternity treatment and care is part of the medical services performed and the care of children is brief and incidental.

() “Prescribed child care center” means a nonresidential child care, health care/child care center providing physician prescribed services and appropriate developmental services for six (6) or more children who are medically and/or technology dependent and require continuous nursing intervention.

() “Related” means for purposes of “child care”: the children, step-children, grandchildren, step-grandchildren, siblings of the whole or half-blood, step-siblings, nieces, nephews, or foster children of the primary care giver. For purposes of “residential child care” it means: children, step-children, grandchildren, step-grandchildren, siblings of the whole or half-blood, step-siblings, nieces or nephews of the primary care provider.

() “Residential child care” means the provision of supervision, and/or protection, and meeting the basic needs of a child for twenty-four (24) hours per day.

() “Temporary holding resource” means a place or facility housing primarily no more than eight (8) children operated by any entity or person, governmental or otherwise, providing a short-term (less than 72 hours, exclusive of non-judicial days) placement alternative for a child or children in a primarily staff secure facility, as defined by the department, while the child or children await adjudication of a pending petition or disposition following adjudication, or pending return to a dispositional placement. This facility shall have a maximum of two (2) hardware secure rooms. At least half of the rooms in the facility shall be non-hardware secure.

SECTION 163. Tennessee Code Annotated, Section 71-3-504 is amended by deleting the word “Annual” in the catchline and by substituting instead the word “Biennial”.

Section 71-3-504 is further amended by deleting the word “annually” in subdivision (a)(1) and by substituting instead the word “biennially”.

Section 71-3-504 is further amended by adding the words “or foster homes” after the words “boarding homes” in subdivision (a)(2).

SECTION 164. (a) Tennessee Code Annotated, Section 71-3-504(b)(1) is amended by deleting the first sentence of subdivision (1) in its entirety and by substituting instead the following:

(1) The commissioner of each department shall appoint a standards committee composed of sixteen (16) citizens, four (4) from each grand division of the state, and four (4) at large for the purpose of developing or reviewing standards and regulations for each class of child welfare agency defined in this part. For any new class of child welfare agency as defined in this part, the standards committee shall develop and recommend to the commissioner the standards and regulations for that new class of child welfare agency. The standards and regulations of each existing class of child welfare agency shall be reviewed by a standards committee every five(5) years. The standards committee shall act in an advisory capacity to the commissioner in recommending any initial standards or regulations or for any changes to the existing standards or regulations. The committee shall cease to exist upon completing its recommendations to the commissioner, but may be re-established by the commissioner to further review its recommendations or to consider additional standards or regulations or to consider revisions to the standards or regulations.

(b) Tennessee Code Annotated, Section 71-3-504(b)(1) is further amended by deleting the words “of human services” in the last sentence.

SECTION 165. Tennessee Code Annotated, Section 71-3-504(c) is amended by deleting the subsection in its entirety and by substituting instead the following:

(c)(1) Any standards or regulations for child welfare agencies which may be defined in § 71-3-501(b) as child abuse agencies, child-caring institutions, child-placing agencies, detention

centers, family boarding or foster care homes, group care homes, maternity homes, or temporary holding resources previously adopted by the department of human services or the Tennessee Correctional Institute shall be utilized for all licensing procedures undertaken by the department of children's services and in hearings and procedures conducted by the board of review on and after the effective date of this act until such standards and regulations are modified by the department of children's services for those child welfare agencies under the jurisdiction of that department.

(2) Any rules concerning the processing of licenses or the conduct of hearings before the board of review previously adopted by the department of human services shall apply to the processing of licenses and procedures before the board for all child welfare agencies under the jurisdiction of the department of children's services until new rules are promulgated by the department of children's services with respect to its licensing procedures or the conduct of hearings before the board concerning child welfare agencies under its jurisdiction.

(3) Nothing herein shall affect the authority of the department of human services to promulgate standards and rules for the regulation of child welfare agencies under its jurisdiction.

SECTION 166. Tennessee Code Annotated, Section 71-3-506(a) is amended by deleting the words and figure "one (1) year" and by substituting the words and figure "two (2) years".

SECTION 167. Tennessee Code Annotated, Section 71-3-506(b) is amended by deleting all the numbers, language and figures following the words "with the following schedule" and by substituting instead the following:

- (1) Family child care home.....\$ 10.00
- (2) Group child care home..... 20.00
- (3) Child care center--Less than 50..... 30.00
- (4) Child care center--50 to 100..... 40.00

(5) Child care center--More than 100.....	50.00
(6) Family boarding home or foster care home.....	10.00
(7) Group care home.....	20.00
(8) Any child-caring institution or child-placing agency	20.00
(9) Maternity home.....	20.00
(10) Runaway shelter.....	20.00
(11) Emergency shelter.....	20.00
(12) Child abuse agency.....	20.00
(13) Prescribed child care center.....	50.00
(14) Detention center.....	50.00
(15) Temporary holding resource.....	50.00

SECTION 168. Tennessee Code Annotated, Section 71-3-510, is amended by deleting this section in its entirety and by substituting instead the following:

71-3-510. (a) In reviewing any licensing action pursuant to this part, the board of review as referred to in §§ 71-3-508 through 71-3-512 shall consist of nine (9) persons and shall include the commissioners of health and education or their designees, the chair of the advisory council of the department of children's services, and the chair of the advisory board of human services, or their designees from their respective advisory council or board as appointed by the commissioners of the departments of children's services and human services, a member from one (1) current or previous standards committee from each department, and three (3) persons selected from a pool of up to twelve (12) representatives at large to be selected by the six (6) stated above as follows:

- (1) Four (4) shall be selected to serve for one (1) year;
- (2) Four (4) shall be selected to serve for two (2) years; and
- (3) Four (4) shall be selected to serve for three(3) years.

Thereafter, each at-large representative shall be selected to serve for terms of three(3) years or until their successors are selected.

(b) A quorum of the board shall consist of five (5) persons.

(c) In establishing a quorum for the board to conduct its review of the licensing actions of the departments, the chairperson shall randomly select the names of the at-large members of the board for the board's current licensing review action from the pool of twelve (12) persons selected pursuant to subsection (a) until the nine (9) member composition is reached or, if that is not possible, until a quorum is reached.

(d) The commissioner of education or the commissioner's designee shall serve as the chairperson of the board until a chair is selected by the board.

(e) The recording secretary for the board shall be a member of the professional staff of the department of human services based upon an inter-agency agreement for the services of the recording secretary as the commissioners of the departments may deem appropriate, and any person selected by the agreement of the departments shall serve as recording secretary for the board. The recording secretary shall be responsible for scheduling the board's meetings and arranging for the facilities to conduct the hearings of the board and such other duties as may be necessary to accommodate the business of the board. The recording secretary shall serve without additional compensation from the department.

SECTION 169. Tennessee Code Annotated, Section 71-3-511 is amended by deleting the second and third sentences in their entireties and by substituting instead the following:

The three(3) members at large who are selected to serve on the board pursuant to §71-3-510, the representatives of the advisory board or advisory council of the departments, and the members of the standards committees of the departments shall receive reimbursement in conformity with law and regulations for their expenses incurred in the performance of their official duties pursuant to the provisions of this part. Such expenses for the representatives from the advisory board or council and the standards committees from the respective department

shall be paid from the funds appropriated to the departments. The expenses for the at-large members shall be shared equally by the departments of children's services and human services.

SECTION 170. Tennessee Code Annotated, Section 71-3-513, is amended by adding the following language as new subsections (a) and (b) respectively, and redesignating existing subsections accordingly:

(a) The department may, in accordance with the laws of the state of Tennessee governing injunctions, maintain an action in the name of the state of Tennessee to enjoin any person, partnership, association, corporation or other entity from establishing, conducting, managing or operating any place or facility providing services to children without having a license required by law.

(b) In charging any defendant in a complaint for such injunction, it shall be sufficient to charge that such defendant did, upon a certain day and in a certain county, establish, conduct, manage or operate a place, home or facility of any kind which is a child welfare agency as defined in this part or to charge that the defendant is about to do so without having a license, without averring any further or more particular facts concerning the case.

SECTION 171. Tennessee Code Annotated, Section 71-3-518 (b)(1), is amended by deleting the words "of human services".

SECTION 172. Tennessee Code Annotated, Section 71-3-519 is amended by adding the words "or suspected child welfare agencies" after the words "child welfare agencies" in subsection (a).

Section 71-3-519 is further amended by adding the following language after the sentence in subsection (b):

If refused entrance for inspection of a licensed, approved, or suspected child welfare agency, the chancery or circuit court of the county where the licensed, approved, or suspected child welfare agency may be located may issue an immediate ex parte order permitting the

department's inspection upon a showing of probable cause, and the court may direct any law enforcement officer to aid the department in executing such order and inspection. Refusal to obey such order may be punished as contempt.

SECTION 173. Tennessee Code Annotated, Section 71-3-520 is amended by deleting this section in its entirety and by substituting instead the following language:

(a) If any complaint is made to the department concerning any alleged violation of the laws, standards or regulations governing a child welfare agency, the department shall investigate such complaint and shall take such action as it deems necessary to protect the children in the care of such agency.

(b)(1) If during the licensing or approval period the department discovers that a child welfare agency is not in compliance with the laws, standards or regulations governing its operation, and if after reasonable written notice to the agency of the violation, the violation remains uncorrected, the department may place the licensed or approved agency on probation.

(2) Prior to placing the agency on probation, the department shall give the agency written notice by personal delivery, or by certified mail, return receipt requested, of the basis for its action. The agency may appeal such action in writing to the commissioner within ten (10) days of the receipt of the notice. If timely appealed, the commissioner or the commissioner's designee shall hold an informal hearing concerning the proposed action. The hearing officer designated by the commissioner shall issue a decision in writing within ten (10) days of the hearing. The decision of the hearing officer shall be final.

(3) If placed on probation, the agency shall post a copy of the notice in a conspicuous place as directed by the department and with the agency's license, and the agency shall notify the custodians of each of the children in its care in writing of the agency's status and the basis for the probation.

(4) If the agency corrects the violation after being placed on probation, the department shall immediately remove the probationary status and the agency shall not be further required to

post any notice of probation and may notify the custodians of the children in its care of its corrected status. If the department determines that the violation has not been corrected, it shall notify the agency in writing of the basis of its determination. The agency may appeal as provided in subdivision (2). If the decision upon appeal is that the agency should remain on probation, the agency may then, notwithstanding any provision of law to the contrary, file a petition for judicial review of the decision of the hearing officer as provided pursuant to § 4-5-322 to the chancery court of the county where the agency is located.

(5) The department shall maintain a record of the hearings held under subdivisions (2) and (4) and such record shall become the record for judicial review pursuant to subdivision (4).

(6) The provisions of this section shall be discretionary by the department, and shall not be a prerequisite to any licensing action to summarily suspend, deny, or revoke a license of a child welfare agency.

SECTION 174. Tennessee Code Annotated, Section 71-3-524 (a), is amended by adding the words “of children’s services” before the period (.) in the third sentence.

SECTION 175. Tennessee Code Annotated, Section 71-3-524(b) is amended by adding the words “of children’s services” after the word “department”.

SECTION 176. Tennessee Code Annotated, Section 71-3-527, is amended by adding the following new subsections:

(f) In addition to the entities, facilities, or programs excluded from licensing or approval pursuant to this part under the prior provisions of this section, the following entities, facilities, or programs are excluded from licensing or approval as child welfare agencies pursuant to this part:

(1) All child care of less than three (3) hours duration;

(2) Pre-school or school age programs subject to compliance with other state or federal law or regulations, including, but not limited to, extended school or morning or after school child care programs which are subject to the provisions of Tennessee Code Annotated, Section 49-2-

203(b)(11), Head Start programs, Even Start programs, Title I programs, or therapeutic nurseries;

(3) Recreational programs or facilities, the primary purpose of which is physical education or physical or craft activities including, but not limited to, county or municipal recreation centers and summer programs associated with them or which are operated or sponsored by public school systems; health clubs; swimming pools; bowling alleys; skating facilities;

(4) Public or private summer day camps or overnight camps such as those operated by the Boy or Girl Scouts, the YMCA or YWCA, by church or religious organizations or by organizations representing disabled children which operate less than ninety (90) days per year; and other similar businesses or programs as determined by the department.

(5) Entities or persons licensed or otherwise regulated by other agencies of the state or federal governments providing health, psychiatric, or psychological care or treatment or mental health care or counseling for children while the entity or person is engaged in such licensed or regulated activity;

(6) Schools and educational programs and facilities the primary purpose of which is to provide a regular course of study necessary for advancement to a higher educational level or completion of a prescribed course of study, and which may, incident to such educational purpose, provide boarding facilities to the students of such programs; provided, however, the Tennessee Preparatory School is not excluded from approval pursuant to this part.

(g) Exempt programs under subsections (a), (c), (d), (e) and (f)(2) and (4) shall post a sign stating "This facility is not licensed, nor required to be licensed, by the State of Tennessee as a child-caring agency."

SECTION 177. Tennessee Code Annotated, Section 71-3-529(a)(1), is amended by deleting the words "of human services" in the second sentence.

SECTION 178. Tennessee Code Annotated, Section 71-3-530 is amended by deleting the section in its entirety and by substituting instead the following language:

(a)(1) Notwithstanding the provisions of §71-3-527, the department of children's services shall have the authority and responsibility to fully investigate, in accordance with the provisions of Title 37, Chapter 1, Parts 1, 4, and 6, any allegation of abuse, neglect, or sexual abuse which it receives regarding any child or children in the care of, or subject to the supervision, instruction, or treatment of, any public or private entity or any person, whether or not such entity or person is subject to licensure or approval pursuant to this part. The department of human services shall report all allegations of abuse or neglect in any child welfare agency which it may license or approve immediately to the department of children's services for investigation and shall cooperate with the department of children's services in any investigations of abuse or neglect involving any such agency.

(2)(A) The departments of children's services and human services shall utilize any information obtained in the course of such investigations in the determination of whether appropriate care is being provided to children which may be in the care of any child welfare agency which they license or approve pursuant to this part.

(B) For purposes related to that determination and any appropriate licensing or approval action, the department of human services shall be permitted access to the department of children's services' records; provided, however, that any information contained in any record of the department of human services' records relating to the investigation of the report of harm by the department of children's services shall be confidential and shall be released:

(i) Only in the proceedings concerning any licensing or approval action or injunctive action by the department of human services permitted by this part; or

(ii) As otherwise permitted by the restrictions and conditions for the release of confidential records of the department of children's services pursuant to Title 4 and Title 37, Chapter 1, Parts 4 or 6; and

(iii) As otherwise permitted by the department of children's services' regulations concerning procedures for release of information of validated perpetrators of child abuse. For purposes of this item, the rules of the department of children's services concerning release procedures for due process purposes shall apply to the release procedures of the department of human services.

(3) In the conduct of such investigations involving the alleged abuse or neglect of any child or in the evaluation of the appropriateness of any child welfare agency or the appropriateness of the care provided by any person, the departments of children's services and human services shall be granted access to the records of children in the care of the person or entity and to all personnel files of the director and employees of the person or entity and to all records of the person or entity. They shall be allowed to inspect all the premises in which children are kept or cared for and shall be allowed to interview any and all children in the care of such person or entity if the departments of children's services or human services determine that it is necessary to do so.

(b) If admission to the places, facilities or homes of the entities or persons involved in the care, supervision, instruction, or treatment of the child is denied or delayed for any reason, the chancery, circuit, or juvenile court of the county where the entity or person is located shall, upon cause shown by the department of children's services in investigations of abuse or neglect or sexual abuse involving any person or entity or in any of its licensing or approval activities, or upon cause shown by the department of human services in any licensing or approval activities, immediately, by ex parte order, direct the persons in charge of such places, facilities or any persons having responsibility for the care, supervision, instruction, or treatment, of the child or children to allow entrance for the review of records, inspection of the premises, and to permit any interviews with or examinations of the children as permitted pursuant to Title 37, Chapter 1 or this part.

(c)(1) If the departments of children's services or human services determine at any time that any person employed or associated in any manner with any person or entity, or any person, providing care, supervision, instruction or treatment, of children has, at any time, abused, neglected, or sexually abused a child, the department with licensing authority may take licensing action to prevent any child welfare agency licensed by it from continuing to provide care for children if such agency fails or refuses to take appropriate or timely action to prevent future abuse, neglect, or sexual abuse by that person.

(2) If the entity or person is subject to licensure or approval by the departments of children's services or human services pursuant to this part, the department with licensing or approval authority may, in addition to any licensing action, bring an action in the chancery, circuit or juvenile court of the county where the abuse, neglect, or sexual abuse occurred or where the person resides to enjoin the entity found to have failed to protect the child or children from abuse, neglect or sexual abuse or the person who, at anytime, abused, neglected or sexually abused a child or children, from continuing currently, or in the future, to provide care, supervision, instruction or treatment for children on a full or part-time basis or to enjoin the person from being associated in any manner with any entities or persons providing care, supervision, instruction, or treatment for children.

(3) If the department of children's services determines at any time that any person employed or associated in any manner with an entity or person, or any person individually, providing care, supervision, instruction or treatment of children, has at any time abused, neglected, or sexually abused a child, the department of children's services may bring an action for injunctive relief as permitted by subdivision (2), whether or not the entity or person is subject to the licensure or approval of the departments of children's services or human services.

(4) The departments of children's services and human services are specifically authorized to enter into inter-agency agreements for cooperative arrangements in the investigations or litigation authorized by this part in order to facilitate the protection of children.

SECTION 179. Tennessee Code Annotated, Section 71-3-531, is amended by adding the words “of human services” after the word “department” wherever it occurs.

SECTION 180. Tennessee Code Annotated, Section 71-3-532, is amended by adding the words “of human services” after the word “department”.

SECTION 181. Tennessee Code Annotated, Section 71-3-533, is amended by deleting the section in its entirety and by substituting instead the following:

(a) A child welfare agency, as defined in § 71-3-501, the department of children’s services, the department of human services, the department of mental health/mental retardation, any other state agency, or any agency that contracts with the state of Tennessee, may require all persons applying to work with children in any capacity as a paid employee, a volunteer, a foster parent, or an adoptive parent to:

(1) Agree to the release of all investigative records to the child welfare agency, the department of children’s services, the department of human services, the department of mental health and mental retardation, any other state agency, or any agency that contracts with the state of Tennessee for the purpose of verifying the accuracy of criminal violation information contained on an application to work or volunteer, or to be a foster or adoptive parent with such agencies; and

(2) Supply a fingerprint sample and submit to a criminal history records check to be conducted by the Tennessee bureau of investigation.

(b) Any costs incurred by the Tennessee bureau of investigation in conducting such investigations of such applicants shall be paid by the child welfare agency, the department of children’s services, the department of human services, the department of mental health and mental retardation, any other state agency, or any agency that contracts with the state of Tennessee requesting such investigation and information. Payment of such costs are to be made in accordance with the provisions of § 38-6-103.

SECTION 182. Tennessee Code Annotated, Title 71, Chapter 3, Part 7, is amended by deleting the words “human services” wherever they appear and by substituting instead the words “children’s services”.

SECTION 183. Tennessee Code Annotated, Section 71-6-204(2), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(2) Comply with §§ 37-1-403 and 37-1-605 by reporting cases of suspected child abuse or neglect or child sexual abuse to the department of children’s services and comply with § 71-6-103 by reporting suspected cases of adult abuse, sexual abuse, neglect, or exploitation to the department of human services.

SECTION 184. Any provision of this act or the application thereof which is inconsistent with federal law, rule, or regulation shall be deemed to be construed as being consistent with federal law, rule, or regulation.

SECTION 185. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 186. This act shall take effect as follows, the public welfare requiring it:

- (a) on July 1, 1996, for the purposes of Sections 76, 85, 92, 95, 99, 106, 107, 144; and
- (b) on becoming law for the purposes of all remaining sections, and for rulemaking and other administrative purposes, unless otherwise provided by this act.